

UNITED STATES BANKRUPTCY COURT

SOUTHERN DISTRICT OF NEW YORK

Case No. 09-50026

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In the Matter of:

GENERAL MOTORS CORPORATION, et al.,

Debtors.

- - - - -x

U.S. Bankruptcy Court

One Bowling Green

New York, New York

June 1, 2009

4:25 PM

B E F O R E:

HON. ROBERT E. GERBER

U.S. BANKRUPTCY JUDGE

1
2 HEARING re Motion for Joint Administration; Motion of Debtors
3 for Entry of Order Directing Joint Administration of Chapter 11
4 Cases Pursuant to Fed. R. Bankr. P. 1015(b)

5
6 HEARING re Motion to Authorize Motion of Debtors for Entry of
7 Order Pursuant to 11 U.S.C. Sections 105 (a), 342(a), and
8 521(a)(1), Fed. R. Bankr. P. 1007(a) and 2002(a), (d), (f) and
9 (1), and Local Bankruptcy Rule 1007-1 (I) Waiving Requirement
10 to File Lists of Creditors and Equity Security Holders and (II)
11 Approving Form and Manner of Notifying Creditors of
12 Commencement of Debtors' Chapter 11 Cases and First Meeting of
13 Creditors

14
15 HEARING re Motion to Extend Time / Motion of Debtors for Entry
16 of Order Pursuant to 11 U.S.C. Section 521 and Fed. R. Bankr.
17 P. 1007(c) Extending Time to File Schedules of Assets and
18 Liabilities, Schedules of Executory Contracts and Unexpired
19 Leases, and Statement of Financial Affairs

20
21 HEARING re Motion to Authorize Motion of Debtors for Entry of
22 Order Pursuant to 11 U.S.C. Section 105(a) Enforcing Protection
23 of 11 U.S.C. Sections 362, 365(e)(1), and 525
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HEARING re Motion to Authorize Motion of Debtors for Entry of
Order Pursuant to 11 U.S.C. Sections 363(c)(1) and 503(b)(1)(A)
Granting Administrative Expense Status to Undisputed
Obligations to Vendors Arising from Postpetition Delivery of
Goods and Services Ordered Prepetition and Authorizing Debtors
to Pay Such Obligations in Ordinary Course of Business

HEARING re Motion to Authorize Motion of Debtors for Entry of
Order Pursuant to 11 U.S.C. Sections 105(a), 345(b), 363(b) and
363(c) and 364(a), and Fed. R. Bankr. P. 6003 and 6004 (A)
Authorizing Debtors to (i) Continue Using Existing Cash
Management System, (ii) Honor Certain Prepetition Obligations
Related to Use of Cash Management System, and (iii) Maintain
Existing Bank Accounts and Business Forms; (B) Extending Time
to Comply with 11 U.S.C. Section 345(b); and (C) Scheduling a
Final Hearing

HEARING re Motion to Authorize Motion of Debtors for Entry of
Order Pursuant to 11 U.S.C. Sections 105(a), 363(b), and 507,
(I) Authorizing Debtors to (a) Pay Certain Employee
Compensation and Benefits and (b) Maintain and Continue Such
Benefits and other Employee-Related Programs and (II) Directing
Banks to Honor Prepetition Checks for Payment of Prepetition
Employee Obligations

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HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105(a) and 363(b) (I) Authorizing Debtors to
Pay Prepetition Obligations to Foreign Creditors and (II)
Authorizing and Directing Financial Institutions to Honor and
Process Related Checks and Transfers

HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105(a) and 363 Authorizing Debtors to Honor
Prepetition Obligations to Customers, Dealers, and Trade
Customers and to Otherwise Continue Warranty, Credit Card,
Other Customer, Dealer, and Trade Customer Programs in the
Ordinary Course of Business

HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105 and 546(c) Establishing and Implementing
Exclusive and Global Procedures for Treatment of Reclamation
Claims

HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105(a) and 503(b)(9) Establishing Procedures
for the Assertion, Resolution, and Satisfaction of Claims
Asserted Pursuant to 11 U.S.C. Section 503(b)(9)

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HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105 and 363(b) Authorizing Payment of Certain
Prepetition (I) Shipping and Delivery Charges for Goods in
Transit, (II) Customs Duties, and (III) Tooling and Mechanics
Lien Charges

HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. 363 (b), 507(a)(8), 541, and 105(a), Authorizing Debtors
to Pay Prepetition Taxes and Assessments

HEARING re Motion for Approval of Adequate Assurance of Payment
to Utility Services and Continuation of Service; Motion of
Debtors for Entry of Order Pursuant to 11 U.S.C. Sections
105(a) and 366 (I) Approving Debtors Proposed Form of Adequate
Assurance of Payment, (II) Establishing Procedures for
Resolving Objections By Utility Companies, and (III)
Prohibiting Utilities from Altering, Refusing, or Discontinuing
Service

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2 HEARING re Motion to Approve Use of Cash Collateral; Motion of
3 Debtors for Entry of Orders Pursuant To 11 U.S.C. Sections 105,
4 361, 362, 363, and 507 (i) Authorizing Use of Cash Collateral,
5 (ii) Granting Adequate Protection to The Revolver Secured
6 Parties, (iii) Granting Adequate Protection to The Term Loan
7 Secured Parties, and (iv) Scheduling a Final Hearing Pursuant
8 to Bankruptcy Rule 4001
9

10 HEARING re Motion of Debtors for Entry of An Order Pursuant to
11 11 U.S.C. Sections 361, 362, 363, and 364 (i) Authorizing The
12 Debtors To Obtain Postpetition Financing, Including on an
13 Immediate, Interim Basis; (ii) Granting Superpriority Claims
14 and Liens; (iii) Authorizing The Debtors to Use Cash
15 Collateral; (iv) Granting Adequate Protection to Certain
16 Prepetition Secured Parties; (v) Authorizing The Debtors to
17 Prepay Certain Secured Obligations In Full Within 45 Days; and
18 (vi) Scheduling A Final Hearing Pursuant to Bankruptcy Rule
19 4001
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HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 363(b), 503(b), and 105(a) and Fed. R. Bankr.
P. 6003 and 6004 (I) Authorizing Debtors to (a) Continue Their
Liability, Product, Property, and Other Insurance Programs and
(b) Pay All Obligations in Respect Thereof, and (II)
Authorizing and Directing Financial Institutions to Honor and
Process Checks and Transfers Related to Such Obligations

HEARING re Motion of Debtors for Entry of Order Pursuant to 11
U.S.C. Sections 105, 363, and 364 Authorizing Debtors to (I)
Pay Prepetition Claims of Certain Essential Suppliers, Vendors
and Services Providers Providers; (II) Continue Troubled
Supplier Assistance Program; and (III) Continue Participation
in The United States Treasury Auto Supplier Support Program

HEARING re Motion for Entry of Order Authorizing Debtors to
Enter Into, and Approving, Ratification Agreement with GMAC LLC

HEARING re Joint Motion of the Debtors and GMAC LLC for Entry
of Order Authorizing Them to File Documents Under Seal

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2 HEARING re Motion of the Debtors Pursuant to 11 U.S.C. Sections
3 105(a) and 362 for Entry of (I) Interim and Final Orders
4 Establishing Notification Procedures Regarding Restrictions on
5 Certain Transfers of Interests in the Debtors and (II) Orders
6 Scheduling A Final Hearing

7
8 HEARING re Motion for Sale of Property under Section 363(b);
9 Debtors' Motion Pursuant to 11 U.S.C. Sections 105, 363(b),
10 (f), (k), and (m), and 365 and Fed. R. Bankr. P. 2002, 6004,
11 and 6006, to (I) Approve (A) The Sale Pursuant to The Master
12 Sale and Purchase Agreement with Vehicle Acquisition Holdings
13 LLC, A U.S. Treasury-Sponsored Purchaser, Free and Clear of
14 Liens, Claims, Encumbrances, and Other Interests; (B) The
15 Assumption and Assignment of Certain Executory Contracts and
16 Unexpired Leases; and (C) Other Relief; and (II) Schedule Sale
17 Approval Hearing

18
19 HEARING re Motion by Debtors for Entry of Order Pursuant to
20 11 U.S.C. Section 365 Authorizing the Rejection of Aircraft and
21 Airport Lease Agreements and for Related Relief

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1 P R O C E E D I N G S

2 THE COURT: Have seats, everybody.

3 Mr. Miller, good afternoon.

4 MR. MILLER: Good afternoon, Your Honor.

5 THE COURT: We're here on first-day motions on General
6 Motors Corp.

7 Mr. Miller, the 1007-2 that you submitted was one of
8 the most comprehensive I think I've ever seen. But I wonder if
9 you want to make some preliminary observations before you get
10 into your motions.

11 MR. MILLER: If I may, Your Honor.

12 THE COURT: Go ahead.

13 MR. MILLER: If Your Honor please, Harvey Miller,
14 Weil, Gotshal & Manges, together with Stephen Karotkin and
15 Joseph Smolinsky, who will be handling part of this hearing,
16 Your Honor. First of all, Your Honor, let me thank you for
17 accommodating the debtors at this late hour.

18 THE COURT: Would you pause, please, Mr. Miller?

19 Folks, we're trying to make these proceedings
20 available for overflow rooms and people on the phone. We need
21 you to be quiet outside the courtroom.

22 Try again, Mr. Miller.

23 MR. MILLER: First, Your Honor, I would like to thank
24 you very much for accommodating the debtors at this late hour
25 in the afternoon. In the matter of this case, time is really

1 of the essence.

2 Second, Your Honor, I would like to introduce to
3 you -- in the courtroom today with us is Mr. Frederick
4 Henderson who is the president and chief executive officer of
5 General Motors Corporation, who is sitting right here, Your
6 Honor --

7 THE COURT: Mr. Henderson, welcome.

8 MR. HENDERSON: Thank you.

9 MR. MILLER: -- Mr. Robert Osborne, who is the general
10 counsel of General Motors Corporation, Your Honor.

11 Today, Your Honor, is the culmination of the longest
12 day that started approximately two or three weeks ago. The
13 hearing may be a little ragged, Your Honor, as a great many
14 people who are participating have been up for an extended
15 period of time.

16 For the purposes of the hearing, Your Honor, and as a
17 predicate for the relief requested in a number of the motions,
18 I would like to offer as part of the record Mr. Henderson's
19 affidavit pursuant to Rule 1007-2 and as the chief executive
20 officer and president of General Motors Corporation, which is
21 sworn to June 1, 2009 --

22 THE COURT: Yes, that's customary.

23 MR. MILLER: -- and the declaration, Your Honor, of
24 William C. Repko, a senior managing director of Evercore
25 Corporation -- Evercore Group, excuse me, LLC, dated May 31,

1 2009.

2 The date, time and venue for the commencement of these
3 Chapter 11 cases, Your Honor, has been the subject of so much
4 media attention and notoriety that today almost feels like the
5 second day. This isn't -- there isn't a media source which has
6 not reported the commencement of these Chapter 11 cases in full
7 detail before they were actually filed, and it says something,
8 Your Honor, for the skill and acumen of the reporters and
9 commentators involved.

10 Be that as it may, Your Honor, the ultimate question
11 presented is, is this trip necessary? To answer that question,
12 we need to look at the facts. Historically, Your Honor,
13 General Motors has been an icon of the automotive industry.
14 Its brand names include Cadillac, Buick, Chevrolet, GMC and
15 others that have long resonated with the public as the standard
16 bearers of the American automotive industry.

17 Unfortunately, as the world has evolved and the United
18 States has entered into a global economy, facts and
19 circumstances changed with great velocity and often
20 circumscribed the ability to respond in an appropriate way.
21 Many basic American industries, as emerging nations have been
22 able to replicate and sometimes improve American production and
23 methods and technology, have come to the forefront as they are
24 not weighed down by cost and expenses that have become
25 encrusted over the years and have put companies such as General

1 Motors in a relatively noncompetitive position.

2 Undeniably, for the past few years, General Motors has
3 been buffeted by a series of exogenous events and circumstances
4 that have caused -- almost caused its termination of
5 operations, a termination, Your Honor, that would have occurred
6 but for the ability of General Motors in December 2008 to
7 negotiate and obtain financing from the United States Treasury
8 in December of 2008. On December 31, 2008, General Motors
9 entered into a loan and security agreement with the United
10 States Treasury, pursuant to which the Treasury agreed to
11 advance up to 13.4 billion dollars over the term of that
12 agreement to enable General Motors to continue to maintain
13 operations while pursuing an effort to reshape itself into a
14 leaner, better, more efficient and economic business
15 enterprise. There were no other lenders, financiers or
16 investors who came forward or who could be found to provide the
17 necessary financing. There was no possible access to the
18 capital markets to enable General Motors to meet its liquidity
19 needs and maintain operations.

20 All prior efforts during the fall of 2008 to access
21 the capital markets or to sell sufficient assets to avoid a
22 meltdown were in vain. The first drawer under the LSA, Your
23 Honor, was at 4 billion dollars made on December 31, 2008. The
24 projected 13.4 billion dollars of borrowings from the United
25 States Treasury turned out to be inadequate as 2009 unfolded.

1 The automotive industry, including General Motors, continued to
2 be subjected to the effects of what was first thought to be a
3 mild recession, then advanced into a very serious recession and
4 soon began to be characterized by many as a depression.

5 Indeed, insofar as the automotive industry was concerned, it
6 was the worst of times since the end of World War II in 1945.

7 From the standpoint of the industry, Your Honor, the
8 deteriorating economic conditions that began during the
9 beginning of the spring and summer of 2008, as gas prices
10 escalated and caused consumers to change their driving habits,
11 exploded in the fall of 2008 with the collapse of Lehman
12 Brothers Holdings Inc. on September 15, 2008.

13 However, it was not so much the serious and damaging
14 effects on the financial markets per se that immensely impacted
15 General Motors but more importantly, Your Honor, the effects on
16 the consumer public. As credit tightened and the negative
17 economic circumstances deepened, unemployment figures rose and
18 the value of home equities precipitously declined, resulting in
19 a monumental crisis of confidence. In that environment, Your
20 Honor, the consumer effectively retreated from spending. And
21 it appears from the habit of purchasing a car or a truck became
22 something to be deferred or suspended.

23 The crisis of confidence spread like wildfire. It did
24 not only affect General Motors but essentially all of the
25 original equipment manufacturers. Even the nondomestic

1 competitive giants like Toyota, Honda and Nissan were affected.
2 And each of these entities, despite substantially lower break-
3 even points, because of significantly lower legacy and other
4 costs, is reporting operating losses.

5 So where are we today, Your Honor? Allow me to put it
6 into perspective. General Motors is a global enterprise. It
7 employs 235,000 persons worldwide as of March 31, 2009. Of
8 that amount, 163,000, approximately, were -- are hourly
9 employees, and 71,000 salaried employees. These Chapter 11
10 cases, Your Honor, only affect the U.S. operations of General
11 Motors. That involves over 90,000 employees, of which
12 approximately 62,000 are hourly and represented primarily by
13 the United Auto Workers of America. Less than one hundred
14 active employees are represented by other unions.

15 For the year end of December 31, 2008, the
16 consolidated enterprise had net sales and revenues of 149
17 billion dollars and reported losses from operations of 30.8
18 billion dollars. Since 2005 and through the first quarter of
19 2009, the enterprise has reported cumulative net losses of 88
20 billion dollars. For the same period it had negative
21 cumulative operating losses of 41.6 billion dollars. As of
22 March 31, 2009, it reported consolidated assets totaling
23 82,290,000,000 dollars, and liabilities of 172,810,000,000
24 dollars.

25 Currently, industry sales in the United States are at

1 their lowest levels since World War II. And Europe, likewise,
2 has almost equally depressed levels of sales. For the first
3 quarter of 2009, General Motors domestic automobile sales
4 dropped by 49 percent compared to the corresponding period in
5 2008.

6 To effectuate its business, General Motors relies upon
7 an effective dealer network; it is a critical part of the
8 General Motors business. Currently, General Motors has almost
9 6,000 dealers and is engaged in a process to rationalize and
10 streamline and make that dealership network more effective
11 while at the same time alleviating the distress that may be
12 incurred by dealers that can no longer be part of that network.

13 General Motors is also critical to the maintenance of
14 the North American automotive supplier community. It does
15 business with almost 11,500 suppliers of parts and components,
16 and expends on an annual basis from 30- to 50 billion dollars a
17 year -- 30- to 50 billion dollars for parts and components. A
18 failure on the part of General Motors would result in severe
19 systemic consequences to that industry.

20 General Motors' total worldwide car and truck
21 deliveries for 2008 were 8.4 million units as compared to 9.4
22 (sic) units in 2007, a significant decline. The economic facts
23 and circumstances of the recession and the shrinking global
24 economy have continued unabated as it affects the automotive
25 industry. Yet, General Motors remains a basic component of the

1 United States industrial complex, as President Obama said today
2 in his remarks to the public.

3 As a major direct employer and indirectly the support
4 for hundreds of other businesses and communities, its continued
5 existence and ability to resume its position as a successful
6 automotive manufacturing company is critical not only to itself
7 and to those directly involved but to the interests of the
8 country. It is a key element in the maintenance of the North
9 American manufacturing base. The federal government, the
10 governments of Canada and Ontario, through Economic (sic)
11 Development Canada, have recognized these facts. They are
12 putting their taxpayer dollars on the line to support
13 transforming the assets to be sold in these cases to effectuate
14 the reinvention of a new and better General Motors.

15 The UAW and a high percentage of General Motors public
16 bondholders, and we believe more than 50 percent, Your Honor,
17 likewise now recognize the need to effectuate what is being
18 proposed in these Chapter 11 cases, Your Honor: a transaction
19 pursuant to Section 363 of the Bankruptcy Code to sell
20 substantially all of the assets of these debtors to a
21 government-sponsored entity.

22 Canada, Germany and the Canadian Auto Workers all have
23 joined in support of this process. And I might add at this
24 point, Your Honor, and I'm sure Your Honor has read in many
25 media -- saw from many media sources that it's not only what is

1 happening in the United States that is of such significance but
2 what is happening in Europe in connection with the potential
3 reinvestment and resuscitation of Opel, Vauxhall, which are
4 parts of the General Motor enterprise in which the German
5 government is providing a bridge loan of a billion and a half
6 euros to allow that process to go forward and the sale of those
7 assets so that that enterprise can continue.

8 And Canada, Your Honor, there has been substantial
9 advances made in resolving all of the issues relating to Canada
10 over the last ten days to the point, Your Honor, that it is not
11 necessary to institute any proceedings involving GMCO, which is
12 the Canadian subsidiary.

13 It is in that context, Your Honor, that we find
14 ourselves here in what in one sense is a sad event, and another
15 sense the occasion to mark the beginning of a new era for the
16 benefit of all parties-in-interest. After consideration of all
17 options, and after good-faith and arm's-length negotiations
18 with its largest secured creditor, the United States Treasury,
19 with EDC and the UAW, and taking into account what is in the
20 best interest of the corporation and its residual stakeholders,
21 General Motors decided that this immense and difficult process
22 would have to be pursued.

23 The urgent need to create a new General Motors, not
24 overburdened by debt and other costs that made it essentially
25 noncompetitive, will be the result of a the process that has

1 been initiated today if approved by the Court. Together with
2 the resolution of the European and Canadian issues, the success
3 of the Section 363 transaction will result in the New General
4 Motors that President Obama described today. General Motors
5 could no longer continue without the relief which it seeks in
6 this Court. Burdened by almost 27 billion dollars of secured
7 debt and without any access to liquidity, it was incumbent upon
8 General Motors to find the means to preserve the going-concern
9 value of its assets to benefit all of the economic stakeholders
10 as well as the public interest.

11 It has not been an easy process. Many parties have
12 worked 24/7 without rest and a Herculean effort to find a
13 solution to protecting and preserving the value of the assets
14 for the common good, assets which must be recognized as fragile
15 in the sense that any liquidation of General Motors would
16 substantially diminish their value.

17 The car and truck manufacturing business is a cash and
18 labor-intensive business. Its stability and progress is
19 dependent upon its sales and revenues. In that perspective,
20 the business of General Motors cannot be compared to any other
21 distressed entities that find their way to this Court. The
22 purchase of a car or a truck for most or almost all American
23 households is a major expenditure. Generally it is the second
24 largest expenditure of such a household. At purchase price
25 ranges of 10- to 25,000 dollars or more, it is a cost which is

1 only incurred after much consideration. There are many choices
2 in the purchase of a car or truck. Consumer confidence is a
3 critical element for a company such as General Motors. The
4 consumer needs to be assured that the manufacturer is reliable,
5 will be there to honor warranties, services, and produce an
6 outstanding product that provides great value, including
7 ultimate resale value.

8 As an automobile manufacturer becomes entangled in
9 bankruptcy, it is the opinion of many, including General
10 Motors, that it will not have the ability to sell its products
11 during a prolonged bankruptcy case. How many consumers will
12 make a major expenditure as long as the uncertainty of
13 bankruptcy looms like a black cloud over the company? This was
14 the precise issue that was addressed by your brother in this
15 bankruptcy court in the Chapter 11 of Chrysler LLC over the
16 past ten days, which resulted in the decision that was filed
17 Sunday night, late Sunday night, approving the Section 363
18 transaction in that case.

19 Consequently, if there's going to be a recovery of
20 value for the assets of General Motors, it's necessary in an
21 absolute sense that the assets be sold as quickly as possible
22 to a purchaser who will immediately commence and resume the
23 operations of a new General Motors. That is the primary
24 objective of these Chapter 11 cases and why General Motors has
25 elected to proceed pursuant to Section 363 of the Bankruptcy

1 Code to sell substantially all of its assets.

2 And in that connection, Your Honor, there is only one
3 prospective purchaser, and that is the Treasury-sponsored
4 Vehicle Acquisition Holdings LLC. The debtors today have filed
5 a motion with the Court seeking approval of the proposed sale
6 to the Treasury-sponsored entity pursuant to that section of
7 the Bankruptcy Code and related provisions.

8 The United Treasury, Your Honor, is the largest
9 secured creditor of the debtors with a claim in excess of 19.4
10 billion dollars. It has agreed to provide debtor-in-possession
11 financing under Section 364 of the Bankruptcy Code provided
12 that the proposed Section 363 transaction is approved no later
13 than July 10, 2009. If the transaction is approved, then
14 within seventy-five days from the commencement of these cases
15 the transaction must close.

16 To ensure the preservation and value of the purchased
17 assets, the United Treasury, as debtor-in-possession financier,
18 will provide approximately 33.3 billion dollars to the debtors
19 to bridge the period to the consummation of the transaction if
20 approved. Currently, Your Honor, General Motors has cash on
21 hand of approximately 2 billion dollars. That is a minimal
22 amount of money in the context of these cases. Accordingly,
23 it's urgent that the debtor-in-possession be put in place now,
24 and we are asking Your Honor to approve interim debtor-in-
25 possession financing today in the amount of 15 billion dollars.

1 And this financing, Your Honor, is being provided not only by
2 the United States Treasury but in part by the EDC on behalf of
3 the governments of Canada and Ontario.

4 And in addition, Your Honor, we are requesting today
5 that the Court approve the proposed sale procedures relative to
6 the Section 363 motion. And I should point out, Your Honor,
7 this Section 363 motion is somewhat different than the 363
8 motions which have been popular over the past two or so years.
9 The government is not taking the characterization, Your Honor,
10 as a stalking horse. It is making an offer to purchase. It is
11 not asking for a breakup fee. The only reimbursement of
12 expenses that would occur, Your Honor, is if the prospective
13 purchaser is outbid, which, I have to say, Your Honor, in all
14 reality is highly unlikely. There is nobody else who has the
15 wherewithal -- or no entity that has the wherewithal to bid in
16 these cases.

17 And as part of this transaction, Your Honor, there is
18 outstanding today secured debt of almost 6 billion dollars, or
19 slightly more than 6 billion dollars. As part of this
20 transaction, the U.S. Treasury will, in effect, refinance that
21 debt and take over that debt. And that will be part of the
22 33.3 billion dollars of debtor-in-possession financing.

23 And I'm not going to go into the 363 motion at this
24 point, Your Honor. All we are asking for from the Court today
25 is to set and approve the sale procedures. And it will be

1 subject, Your Honor, although I think it is somewhat illusory,
2 to higher or better offers. And what we are proposing, Your
3 Honor, because of the exigencies that are involved in this
4 case, is that, if it's convenient to the Court, that the sale
5 approval hearing be held on June 30, 2009, approximately thirty
6 days from today.

7 And we have, Your Honor, set up a schedule, subject to
8 Your Honor's approval, to fix the objection deadline for June
9 19 and the bid deadline for June 22nd. That's one of the
10 first-day motions that is on the agenda for today, Your Honor.

11 THE COURT: Um-hum. And the motion for approval of
12 the 363 would be returnable on the 30th, Tuesday the 30th of
13 June?

14 MR. MILLER: That's correct, Your Honor, if it's
15 convenient to Your Honor.

16 THE COURT: Go on, please.

17 MR. MILLER: With that introduction and those
18 comments, Your Honor, we have listed and submitted to the Court
19 a number of proposed first-day orders. And with Your Honor's
20 permission, I would proceed with those orders under the
21 category of procedural or administrative. And I --

22 THE COURT: Yes, Mr. Miller, you could help us do our
23 jobs if you would handle joint admin first --

24 MR. MILLER: That's number one on the list, Your
25 Honor.

1 THE COURT: -- which facilitates docketing; then your
2 procedural motions and your other motions that are almost
3 always granted in --

4 MR. MILLER: Yes, sir.

5 THE COURT: -- cases of this character.

6 MR. MILLER: Yes, sir. The first application, or
7 motion, is to -- pursuant to Bankruptcy Rule 1015(b), directing
8 that these four Chapter 11 cases be jointly administered.

9 THE COURT: May I interrupt?

10 Anybody opposed to joint admin?

11 Granted.

12 MR. MILLER: The second motion, Your Honor, is for an
13 order pursuant to Section 105(a) and related provisions and
14 Bankruptcy Rule -- Local Bankruptcy Rule -- I'm sorry,
15 Bankruptcy Rule 1007(a) and 2002 waiving the requirements to
16 file a list of creditors and equity securityholders, and
17 approving the forms and manner of notifying creditors of the
18 commencement of the debtor's cases.

19 THE COURT: Pause, please.

20 Any opposition?

21 Granted.

22 MR. MILLER: The next motion, Your Honor, is a request
23 for an order pursuant to Local Bankruptcy Rule 1007-2(e)
24 scheduling the initial case conference.

25 THE COURT: I might be of a mind to waive it, but if

1 you think it would be helpful let's put it on a date you would
2 recommend, coordinated with other matters that this case is
3 also using.

4 MR. MILLER: Yes, Your Honor. May I suggest that -- I
5 understand from Ms. Adams, United States Trustee, that there
6 will be an organizational meeting of creditors this Wednesday.
7 And if it's convenient, Your Honor, we would discuss with the
8 creditors' committee what would be a convenient date for the
9 case conference.

10 THE COURT: Ms. Adams, are you going to be speaking
11 for your folks today, or one of your colleagues, or --

12 MS. ADAMS: Yes, Your Honor.

13 THE COURT: Okay. Did I understand Mr. Miller to say
14 that you're going to try to get an organizational meeting of
15 creditors on Wednesday, that's June 3rd, two days from now?

16 MS. ADAMS: Your Honor, it's scheduled for Wednesday
17 June 3rd at 10 a.m. at the Hilton New York Hotel, 1335 6th
18 Avenue.

19 THE COURT: Okay, that's fine. I will need to ask you
20 and anybody else who's helping out, because there are people
21 listening in other rooms and on the phones, and this is a
22 crowded courtroom, to come over to a microphone so you can be
23 heard more loudly. I think you announced an address. I didn't
24 get it myself.

25 MS. ADAMS: Yes, Your Honor. I apologize. Diana

1 Adams for the United States Trustee's Office. The
2 organizational meeting will be held this Wednesday, June 3rd,
3 10 a.m., at the Hilton New York Hotel, 1335 6th Avenue, between
4 53rd and 54th Street. And the ballroom will be on the
5 electronic bulletin board by the elevators as you enter.

6 THE COURT: Very good. Thank you.

7 Back to you, Mr. Miller, I'm sorry.

8 MR. MILLER: I would also add, Your Honor, there is a
9 Web site that has been set up by the Garden City Group in
10 connection with this case, and access to that Web site will
11 carry all the information relative to the case.

12 THE COURT: Okay. That's very helpful. Thank you.

13 MR. MILLER: So we will get back to Your Honor with a
14 proposal date for the initial case conference.

15 THE COURT: Good.

16 MR. MILLER: The fourth application, Your Honor, is,
17 pursuant to Section 521 and Bankruptcy Rule 1007(c), extending
18 the time to file schedules of assets and liabilities, schedules
19 of executory contracts and unexpired leases, and statement of
20 financial affairs.

21 THE COURT: On a case of this type, that's pretty
22 understandable.

23 Any objection by the U.S. Trustee's Office?

24 MS. ADAMS: (No audible response).

25 THE COURT: None.

1 Motion granted.

2 MR. MILLER: The fifth motion, Your Honor, is for an
3 order, pursuant to Section 363(c)(1) and 503(b)(1)(A), granting
4 administration expense status to the debtors' undisputed
5 obligations to vendors arising from post-petition delivery of
6 goods and services that were ordered pre-petition but delivered
7 post-petition.

8 THE COURT: Anybody want to be heard on this?

9 I'm going to grant this with just a word of
10 explanation. Many people would be of the view you don't need
11 this. This is a classic comfort order.

12 MR. MILLER: Yes, sir.

13 THE COURT: But it's my practice to give the vendor
14 community comfort that they have rights which many of us would
15 understand that they already have. But this is an important
16 concern, and it's granted for that reason.

17 MR. MILLER: Thank you, Your Honor. The sixth motion,
18 Your Honor, again, is in the category of a comfort order. It
19 is a request for an order pursuant to Section 105 enforcing the
20 protections of Sections 362, 365(e) and 525. This is an order,
21 Your Honor, which is going to be sent out to vendors and other
22 persons interested in these estates, advising them of the
23 provisions of these sections.

24 THE COURT: Granted for the same reason. Having these
25 understandings clear has got to be helpful to everybody.

1 MR. MILLER: We now turn, Your Honor, to the
2 substantive orders. And I will tell Your Honor, with the
3 permission of Ms. Adams, that we have reviewed with the Office
4 of the United States Trustee all of these first-day motions,
5 and we have taken into account all of the comments which have
6 been made on behalf of the Office of the United States Trustee.
7 And I would make one general representation, Your Honor, in
8 respect of Local Rule 6003: The debtors will only pay during
9 the next twenty days those obligations which become due in the
10 regular course of that period of time and not beyond that.

11 THE COURT: Okay.

12 MR. MILLER: Okay, and in that connection, Your Honor,
13 and as to these substantive motions, we are going to play a
14 sort of tag game on them.

15 THE COURT: Not a problem.

16 MR. MILLER: Mr. Karotkin will take the cash
17 management.

18 THE COURT: Mr. Karotkin, come on up, please.

19 MR. KAROTKIN: Thank you, Your Honor. Stephen
20 Karotkin, Weil, Gotshal & Manges, for the debtors. The cash
21 management motion, Your Honor, as Mr. Miller indicated, we have
22 reviewed it in detail with the Office of the United States
23 Trustee. They've only raised one issue and that's with respect
24 to the waiver of compliance with Section 345, which we've
25 agreed would be waived on an interim basis. As the order

1 reflects, it is an interim order, and during the interim period
2 we would try to work with the Office of the United States
3 Trustee to address the 345 issue.

4 The motion is a relatively straightforward motion
5 which describes the debtors' cash management systems and
6 requests that debtors have authority to continue that system,
7 continue the maintenance of existing bank accounts and continue
8 transfer of funds among the debtors and their affiliates in the
9 ordinary course of business consistent with their pre-petition
10 practices. It also requests that they be permitted to continue
11 to maintain their existing business forms. And, of course,
12 since it is only interim relief, it does request that a final
13 hearing be scheduled.

14 Your Honor, the motion goes into excruciating detail
15 as to the debtors' cash management system and how it works both
16 in the United States as well as overseas. I am more than happy
17 to explain it to you. As I indicated, it is set forth in quite
18 a lot of detail. Basically, the cash management system allows
19 the debtors and their affiliates to function as a unified
20 enterprise and to achieve value through consolidating their
21 various brands. GM, as the parent corporation, derives its
22 strength as a brand and as a company from its subsidiaries.
23 Without the intercompany relationships among GM and its
24 subsidiaries, the ability to operate as a going concern would
25 be hindered.

1 The cash management system is managed by the debtors'
2 Treasury personnel in New York with the assistance of certain
3 third-party processors and service providers. And there are
4 two principal components; one is a U.S. cash management system,
5 which is an integrated, centralized cash management system in
6 the United States under which funds collected by the debtors
7 and certain of their domestic nondebtor subsidiaries are
8 transferred to concentration accounts and then disbursed to pay
9 operating expenses and fund other expenditures of the debtors
10 and their affiliates.

11 THE COURT: Mr. Karotkin, can I interrupt you --

12 MR. KAROTKIN: Sure.

13 THE COURT: -- because I read your motion, although I
14 don't claim to have the same mastery of it that you do. Before
15 I ask the couple of questions that I have, and I don't rule out
16 the possibility the answers are in your papers and I missed
17 them, anybody want to be heard in opposition to the cash
18 management system motion?

19 No objection.

20 Let me just ask my couple of questions, Mr. Karotkin.
21 The first you anticipated you were a step ahead of me on. With
22 the lessons that we've learned from bank failures or
23 difficulties over the last couple of years, we pay more
24 attention to 345 compliance than we used to. Did I understand
25 you to say that you're reviewing with the U.S. Trustee's Office

1 and with your management getting a debtor into 345 compliance
2 or otherwise giving us the comfort that your cash won't be at
3 risk in any depositories?

4 MR. KAROTKIN: Yes, sir, that's what we've agreed to
5 do over the ensuing couple of weeks with the Office of the
6 United States Trustee.

7 THE COURT: Okay. Second, lessons we're hearing from
8 other cases on my watch. When money goes back and forth
9 between affiliated debtors or affiliated companies, whether you
10 spend on behalf of another debtor it creates an intercompany
11 obligation. Now, when debtors have guaranteed their funded
12 debt, that's not typically as big a deal or big an issue, but
13 what kind of arrangements do we have to protect individual
14 debtors or individual entities' identity on intercompany
15 obligations such as they're given some kind of superpri or a
16 junior lien? Or is this something that you're working on and
17 you're going to get back to me on?

18 MR. KAROTKIN: Your Honor, the order provides, and the
19 debtors certainly track all of the funds, how they move
20 intercompany. Detailed books and records are kept with respect
21 to the transfers, and obviously we would continue to do it on
22 an ongoing basis. We do not provide for any superpriority
23 claims with respect to intercompany transfers. There are only
24 four debtors in this before you. Most of the cash is generated
25 out of General Motors Corporation in the United States.

1 THE COURT: So it's not likely to be a material issue
2 in this case, you're saying?

3 MR. KAROTKIN: I don't believe so, sir.

4 THE COURT: All right. Well, I'm going to be
5 comfortable with that for now. Let me simply ask you to keep
6 focusing on that between now and the time of final
7 consideration on this.

8 MR. KAROTKIN: Very well, sir. Thank you.

9 THE COURT: Okay.

10 Anybody else want to be heard on this?

11 Cash management is approved subject to reconsideration
12 at the final.

13 MR. KAROTKIN: Thank you, sir.

14 THE COURT: Mr. Smolinsky, good afternoon.

15 MR. SMOLINSKY: Good afternoon, Your Honor. Moving to
16 number 8 on the agenda is the debtors' motion for authority to
17 pay pre-petition wages.

18 THE COURT: Sure.

19 MR. SMOLINSKY: Your Honor, the wage motion is
20 designed to preserve one of the debtors' most valuable assets:
21 its human capital. GM, as we stated earlier, but I could
22 update those numbers from March 31st, GM employs approximately
23 224,000 employees around the globe who are dependent upon the
24 continued viability of the debtors. Of this number, the
25 debtors employ approximately 80,000 employees, 53- of which are

1 hourly employees, which are represented by unions. In
2 addition, GM continues to support approximately 600,000
3 retirees and their dependents.

4 Throughout this presentation I'll refer to hourly
5 employees as union-represented employees and salaried employees
6 non-union representatives.

7 Your Honor, we apologize for the length of the wage
8 order. To tell you the truth, I haven't seen one this long,
9 but we determined that it was important to cover all the bases
10 and full disclosure. And I think the sheer number of benefit
11 plans and programs is, in large part, a function of the
12 different collective bargaining agreements and the different
13 programs that were created as a result of collective
14 bargaining.

15 We've reviewed the wage motion with the U.S. Trustee.
16 We've responded to a number of questions, and hopefully to
17 their satisfaction.

18 To hit some high notes, Your Honor, all salaried
19 employees are fully paid --

20 (Conversation from speakerphone inadvertently left open)

21 THE COURT: Continue, please, Mr. Smolinsky.

22 MR. SMOLINSKY: Yes. All salaried employees are fully
23 paid through May 31st. So, accordingly, for the salaried
24 employees there is no pre-petition unpaid compensation.

25 And I'm also relieved to report this is the first time

1 in my career that every non-union employee is actually subject
2 to direct deposit. So we will not have the issue of --

3 THE COURT: Clearing their checks?

4 MR. SMOLINSKY: -- checks in float.

5 With respect to union employees, I can represent, at
6 the request of the U.S. Trustee, that we will not pay any union
7 employees over the statutory cap for pre-petition compensation
8 at this juncture. And I don't believe that anyone would fall
9 into that category. So I was able to make that representation.

10 A few more high notes, Your Honor. With respect to
11 incentive compensation, of which there really hasn't been any
12 in the last year in any meaningful amount, there are no CRP
13 (ph.) in place. Moreover, while we're seeking authority to
14 continue to pay severance, which are period severance payments,
15 in the ordinary course, there are no insiders in this category
16 as the U.S. Treasury, as part of their conditions of making the
17 loan, has prohibited severance for the top twenty-five highly
18 compensated executives.

19 Your Honor, I don't intend to walk through the entire
20 motion, unless Your Honor would like me to. I'm certainly
21 available for any questions. There is one further
22 representation that we agreed to accommodate the U.S. Trustee,
23 and that's that during at least the initial twenty-day period
24 that the U.S. Trustee would be able to review any individual
25 business expenses that are in excess of 2,500 dollars,

1 excluding airfare. And we would make the further
2 representation that there will be no first-class airfare.

3 THE COURT: Okay.

4 Anybody want to be heard on this?

5 UNIDENTIFIED SPEAKER (TELEPHONICALLY): He's hinting
6 on private jets.

7 THE COURT: Is somebody cracking jokes in a pretty
8 serious hearing here? I'm going to say this once more, folks.
9 If people listening on phone aren't on mute, I'm going to
10 disconnect everybody off the telephone. And if everybody
11 cracks any jokes about this, I'm going to disconnect everybody
12 from the phone. This is serious to a lot of people's lives,
13 and I would have thought people would understand that.

14 Yes?

15 MS. CECCOTTI: Good afternoon, Your Honor. I just
16 took a moment to confer and clarify with Mr. Smolinsky --

17 THE COURT: Pause, please.

18 MS. CECCOTTI: I'm sorry.

19 THE COURT: For the transcript, I need identifications
20 on the record the first time.

21 MS. CECCOTTI: Yes. Babette Ceccotti, Cohen, Weiss
22 and Simon, for the auto workers.

23 THE COURT: Sure, go ahead, Ms. Ceccotti.

24 MS. CECCOTTI: Just in light of the representation
25 that Mr. Smolinsky made regarding the compensation cap of

1 10,950 at the request of the United States Trustee, I was
2 asking debtors' counsel if he would clarify that that amount
3 applies to compensation for ongoing employees as opposed to a
4 category of payments that is described in some detail in the
5 motion with respect to attrition programs.

6 THE COURT: Could you say that again a little bit
7 slower, please, Ms. Ceccotti?

8 MS. CECCOTTI: Certainly. I was going to ask if the
9 debtors could clarify for us on the record with respect to the
10 representation that Mr. Smolinsky made regarding the 10,950
11 dollar cap applicable to employee compensation. My
12 understanding, I believe, and I would ask debtors' counsel to
13 confirm, is that that cap would not apply to a category of
14 payments which is described in the motion with respect to
15 attrition programs for employees who, over the course of time,
16 have taken voluntary -- either early retirement or voluntary
17 termination under programs that involved dollar payments to
18 them.

19 THE COURT: Your point being that they might be nailed
20 by the cap otherwise?

21 MS. CECCOTTI: Correct.

22 THE COURT: Mr. Smolinsky?

23 MR. SMOLINSKY: Your Honor, we could let the U.S.
24 Trustee speak. It was not my intention to modify any
25 collective bargaining plan. So it was meant to only cover

1 compensation.

2 MS. ADAMS: Diana Adams, the U.S. Trustee's Office.
3 We did not intend that any collective bargaining agreements be
4 modified, Your Honor. So that's --

5 THE COURT: Okay. Does that give you the comfort you
6 need, Ms. Ceccotti?

7 MS. CECCOTTI: It does, thank you very much, Your
8 Honor.

9 THE COURT: Sure. Okay.

10 Anybody else want to be heard on wages?

11 All right, this motion's going to be granted for the
12 reasons by which motions of this character have been routinely
13 granted every Chapter 11 case in my career. It's essentially
14 impossible to reorganize a company without doing right by your
15 employees, at least to the extent that you can under the law,
16 and to the extent that you can given your resources. And this
17 is one of the easier motions I've been asked to grant. It's
18 granted, Mr. Smolinsky.

19 MR. SMOLINSKY: Thank you, Your Honor. The next
20 matter, number 9, on the agenda is the critical vendor motion.
21 This is an extremely important motion for GM. We're seeking
22 here today, only on an interim basis, approval of several
23 components comprising an overall approach to critical vendors.
24 GM has spent untold hours analyzing the potential impacts of a
25 Chapter 11 filing on its supplier base: vendors that have

1 already been struggling with the precipitous drop in automotive
2 sales and now facing a temporary shutdown of substantially all
3 of GM's facilities other than two, which continue to operate.
4 The others are on staggered program but several have been
5 closed from, I believe, May 18th and will not reopen until July
6 20th, I believe.

7 So we've already seen a number of tier 1 suppliers
8 filing for chapter 11 in recent weeks; I doubt that we've seen
9 the last. And it would be truly a shame after all the work
10 that we have done to preserve the going-concern value of the
11 company that the value would be eroded as a result of a failure
12 to maintain a viable supplier base.

13 Due to the size of GM, a number of suppliers rely on
14 GM for a substantial portion of their business. And even a
15 hint that receivables from GM are not collectible could turn
16 into a real liquidity crunch caused by their lenders, putting
17 reserves on these receivables.

18 So there are a number of programs that have already
19 been put in place or are sought to be established that we're
20 seeking approval of today, and these include three specific
21 programs, Your Honor. The first is the Troubled Supplier
22 Program. GM has always maintained a program under which they
23 provide a number of accommodations -- a variety of
24 accommodations for suppliers who are unable to operate without
25 financial assistance. And with due respect to my colleague

1 Mr. Miller who said that we would only pay obligations as they
2 come due, I think this is the one exception to that rule if
3 Your Honor was inclined to approve this program going forward,
4 because this is the program where if General Motors sees one of
5 its critical suppliers going down that it will step in, because
6 it could take weeks, if not months, to resource a particular
7 sole-source part for a variety of reasons. First, the debtors
8 would have to go out and get more tooling, which takes months.
9 Second, there may not be capacity for that part. And third, a
10 part needs to be tested for quality controls, which is a
11 process which takes a substantial period of time. So,
12 oftentimes General Motors, through its Troubled Supplier
13 Program, will step in and will take the necessary steps to make
14 sure that its assembly lines continue to roll.

15 Your Honor, I think Delphi is a good example of a
16 supplier that is receiving substantial financial aid. And any
17 cessation of that support, if this motion was not granted,
18 would -- could certainly lead to irreparable harm of the
19 debtors. So we're seeking authorizing to continue to provide
20 that support through the Troubled Supplier Program in the
21 ordinary course.

22 The second is the United States Treasury Supplier
23 Program. In response to concerns raised by suppliers that the
24 government funding of the OEMs were not sufficiently assisting
25 troubled suppliers, a program was instituted whereby the OEMs

1 would establish a finance company and that would be funded, in
2 part, by the OEMs. And suppliers could effectively sell their
3 receivables into the finance entity and either get paid on an
4 accelerated basis at a discount or continue to get paid over
5 time with the guarantee of the United States Treasury. This
6 has become a popular program for GM suppliers.

7 THE COURT: The OEMs being companies like General
8 Motors?

9 MR. SMOLINSKY: Yes, Your Honor, original equipment
10 manufacturers.

11 THE COURT: Or the Chryslers of the world and the
12 like?

13 MR. SMOLINSKY: Exactly, Your Honor.

14 THE COURT: And, in substance, you're acting as
15 factoring banks?

16 MR. SMOLINSKY: That's right, Your Honor, with a
17 guarantee.

18 THE COURT: Okay. Continue.

19 MR. SMOLINSKY: So without the continued availability
20 of this program, many additional suppliers would see their own
21 credit tightened to reflect the uncertainty of payment. And
22 although the Chapter 11 filing would ordinarily be a
23 termination event under this program, the U.S. Treasury is
24 prepared to waive any default and to keep this process of
25 processing receivables in the ordinary course. In fact, the

1 proposed master purchase and sale agreement requires continued
2 performance under this program. So with this motion the
3 debtors seek authorization to continue with the program.

4 The third portion is the critical vendor, the
5 traditional critical vendor that we've all come to know. And
6 the debtors have expended significant resources in developing a
7 very disciplined process of evaluating the supplier base to
8 determine which vendors, if not paid, could cause irreparable
9 harm to the debtors' to operate as a going concern.

10 As previously stated, everyone recognizes the unique
11 problems that could befall an OEM as large as GM if even one
12 supplier refuses or cannot perform their obligations to
13 continue to supply goods and services on a daily basis. The
14 loss of one critical vendor could easily cascade due to this
15 just-in-time manufacturing process into a complete shutdown of
16 an assembly line. And critical vendor motions in the
17 automotive space have often referred to the proverb "For want
18 of a nail, the kingdom was lost." And that's what I think
19 we're talking about here, Your Honor.

20 So the purchaser of this company, the proposed
21 purchaser, the DIP lenders, certainly understand the reliance
22 on every -- on all critical vendors. They've provided DIP
23 funding under the DIP facility in order to satisfy these needs
24 with certain cushions in case the unexpected happens.

25 And I just, Your Honor, want, just for the record, for

1 you to consider as part of this motion a few things. Number
2 one, the vast majority of the outstanding supplier claims are
3 for sales of goods that are used directly for the production of
4 automobiles. These suppliers are all paid up for goods shipped
5 through the end of April. They are on what's called the MNS2
6 system; so they get paid, effectively, sixty days later. For
7 some suppliers, the ability to get paid for May shipment is
8 critical to their ability to purchase raw materials so that
9 when the temporary shutdown is over they will be able to
10 restart production.

11 Number two, for the most part this is a timing issue.
12 You'll hear throughout this case that the company has between
13 400- and 500,000 contracts that are going to be assumed and
14 assigned as part of the sale process. And so, assuming that
15 the sale goes forward as planned, many of these obligations
16 would be paid just a few months later as part of the assumption
17 process.

18 THE COURT: As cure amounts?

19 MR. SMOLINSKY: As cure amounts, Your Honor. The
20 third and last issue for your consideration is that there's a
21 significant overlap between the critical suppliers that we're
22 talking about here and other motions that we're seeking relief
23 here today, such as the 503(b)(9). The amount of claims that
24 would fall under the 503(b)(9) motion is approximately 1.1
25 billion dollars. That's the amount of goods that have been

1 sold in the last twenty days. So with that -- if those sales
2 do have administrative priority, then, again, we're only
3 talking about a timing issue.

4 Your Honor, the debtors intend, as part of the
5 critical vendor motion, to get extremely beneficial trade
6 terms. We have attached to our motion a form of trade
7 agreement which provides, in exchange for critical vendor
8 payment, to get continued credit on beneficial terms and to
9 adopt into a streamlined dispute resolution program, among
10 other benefits.

11 As evidentiary support, I'd point your attention to
12 the Frederick Henderson affidavit, particularly paragraph 25
13 through 27 which talk about the importance of maintaining a
14 viable supplier base and the irreparable harm that could come
15 from not being able to pay critical vendors in the exercise of
16 their business judgment.

17 THE COURT: Okay. Anybody want to be heard on this
18 one?

19 No response. Mr. Smolinsky, I'm granting your motion
20 in all three of its respects and just taking a moment to
21 explain the bases for the exercise of my discretion in this
22 regard. The Troubled Supplier Program and U.S. Treasury
23 Supplier Program components of your motion are, in substance,
24 exercises of your 363 power, your power to use estate assets
25 for the betterment of the business. For the reasons stated in

1 your motion, the Henderson affidavit and your oral
2 supplementation, it's obvious to me that payments of that
3 character are in the best interests of the company and are
4 plainly appropriate.

5 Vis-a-vis the critical vendor portion, that is not so
6 much a 363 analysis in my mind but a classic doctrine-of-
7 necessity analysis. And I once more think you set forth a
8 satisfactory basis for that in your motion and in your
9 Henderson affidavit. And in your earlier remarks you talked
10 about "for want of a nail". Particularly for a company that
11 uses just-in-time inventory control and whose production lines
12 can be impaired by your inability to get product from your
13 suppliers, a stronger-than-average showing was made on the
14 critical vendor component as well.

15 All granted, and take care of the paperwork at the
16 conclusion of the hearing.

17 MR. SMOLINSKY: Thank you, Your Honor. If I could ask
18 your indulgence, number 10 on the agenda --

19 THE COURT: I got to confess to you that in my pile of
20 papers I lost the agenda. Just tell me which motion you're --

21 MR. SMOLINSKY: Your Honor, we're going to skip over
22 the foreign trade --

23 THE COURT: Wait, Mr. Smolinsky, I'm getting help.
24 Go ahead, please.

25 MR. SMOLINSKY: We're going to skip over the foreign

1 trade creditor motion and come back to that and go to number
2 11, which is the warranty and customer practice motion.

3 THE COURT: Go on, please. You can start talking
4 while I'm looking.

5 MR. SMOLINSKY: Thank you, Your Honor. The warranty
6 and customer practice motion seeks authorization to continue
7 programs in place to honor obligations and benefits of the
8 debtor to its direct and indirect customers. The debtors
9 maintain several distribution outlets for their products.
10 These include: the sales of vehicles to dealers for ultimate
11 sales to consumers; the sale of vehicles directly to fleet
12 customers; and, finally, the sale of parts and accessories to
13 trade customers.

14 Given the high cost value of the debtors' products,
15 it's absolutely crucial to maintain various types of warranties
16 and customer programs in order to nurture and enhance customer
17 loyalty and customer satisfaction. I don't think that there's
18 a more important time than today in order to demonstrate to the
19 world that we manufacture very reliable vehicles, that we're
20 willing to stand behind them and provide the best warranties in
21 the business.

22 Your Honor, just to go through a couple of the
23 details, and I don't want to jump too far into it, but there is
24 a typical warranty portion which includes recall programs.
25 We're seeking authority to continue a GM Cash Rewards Program,

1 which is credit cards issued by banks, although GM administers
2 a reward program where parties can earn points and then redeem
3 them for discounts on General Motors vehicles.

4 Your Honor, there's a sales incentive program which is
5 very important to our dealers. In the ordinary course, and I
6 think this is true of all OEMs, there's a tremendous amount of
7 money that goes back and forth between the OEM and dealers in
8 the form of rebates, in the form of credits, incentives for
9 particular vehicles. And so the sum and substance of this
10 motion is to seek authority to continue to grant rebates back
11 to the dealers, to grant incentives that ultimately get passed
12 on to the consumer. And unless we have the authority to do
13 that, number one, the dealers can't remain competitive in the
14 market because they can't pass along incentives, and number
15 two, we're going to start seeing dealers in financial trouble
16 because of the cessation of payments from the OEM, from GM.
17 And so it's very important that we keep this.

18 We are currently, as was indicated earlier, going
19 through a program to rationalize our dealer base. And all of
20 this is part and parcel of that program, not only to provide
21 incentives to those dealers that are going ahead with us but
22 also dealers that are going to be winding down. These
23 incentives are very important so that they can sell their
24 inventory in the ordinary course.

25 So, Your Honor, unless you have questions, that is the

1 customer practice motion.

2 THE COURT: I don't.

3 Anybody want to be heard on this one?

4 The record will reflect no response.

5 I'm granting this one as well, Mr. Smolinsky. This is
6 another one whose wisdom is obvious. I can think of very few
7 things that are as important as maintaining the confidence of
8 our consumers and doing right by them and honoring your
9 warranties and the like. It's granted.

10 MR. SMOLINSKY: Thank you, Your Honor. Your Honor,
11 the next motion is the reclamation motion. This is largely
12 procedural. Under the proposed procedure, the reclamation
13 claimants would serve on the debtors a demand, the debtors
14 would investigate the claim, and no later than 120 days file a
15 reclamation notice listing which would list each claimaint in
16 the amounts that the debtors find to be valid under the statute
17 for a valid reclamation claim. Any party that wishes to object
18 to the debtors' findings would have twenty days to file an
19 objection. And then the debtors would try to work out a
20 resolution with the creditor. And if something can't be worked
21 out within ninety days, then the debtors may file a motion
22 before Your Honor in order to fix the allowed amount of the
23 claim.

24 If a settlement is reached, Your Honor, the settlement
25 stipulation would be circulated to a group of notice parties

1 and they will have the right to object within ten days. If no
2 objection is filed, then the stipulation will be effective.
3 And if there is an objection filed within ten days, then the
4 parties will try to resolve it within the next thirty days.
5 And if no resolution is reached, then we would come back to
6 Your Honor for a hearing on the amount of the reclamation
7 claim.

8 THE COURT: All right, pause, please, Mr. Smolinsky.

9 Anybody want to be heard on this one? Yes, sir, come
10 on up, please. Actually, a couple of people. The man ahead of
11 Mr. Sidell -- all right, Mr. Sidell, you got the high ground.
12 Come on up.

13 Remember, folks, we need full appearances on the
14 record.

15 MR. SIDELL: Good morning, Your Honor -- good
16 afternoon, Your Honor. Barry Seidel, Butzel Long, on behalf of
17 a number of suppliers to GM. In this matter, I'm appearing on
18 behalf of Inteva Products. Inteva called me up today and was
19 reviewing these procedures for reclamation, and Inteva was
20 interested in making a reclamation demand. And when we went
21 through this motion and the proposed order, I did notice that
22 this order would expand or would decrease the rights of
23 reclamation parties. Under UCC reclamation, a reclaiming
24 creditor has to notify the debtor and identify the goods it
25 wishes to reclaim. Under the proposal that the debtors lay out

1 before Your Honor, they suggest that the reclaiming creditor
2 needs to deliver to GM purchase orders and the like. And when
3 speaking to my client today, they tell me it could be days
4 before they can obtain copies of those purchase orders.

5 THE COURT: Your point being that would impair your
6 ability to provide the notice before the time for a notice runs
7 out?

8 MR. SEIDEL: Correct, Your Honor.

9 THE COURT: Okay. Before I give Mr. Smolinsky a
10 chance to respond, I'll hear any other folks who want to be
11 heard.

12 MR. SULLIVAN: Your Honor, James Sullivan of Arent
13 Fox, counsel for Timken, Superior Industries International, and
14 Harman. My comment is similar. The requirements of the motion
15 impose fairly burdensome obligation of the reclaiming creditor;
16 in addition to a description of the goods subject to
17 reclamation, requires: to name the name of the debtor towards
18 the goods that were delivered; copies of any purchase orders
19 and invoices relating to such goods; evidence regarding the
20 dates such goods were shipped to and received by the debtors.
21 In these types of automotive cases it's not uncommon that the
22 parties might have difficulty establishing, for example, which
23 debtor somebody shipped a good to, because a lot of these
24 things are done on an automated basis. It's not necessarily
25 always done with paperwork.

1 The other thing, a lot of these documents often will
2 just say "General Motors" and it's not always easy to tell, for
3 example, whether the transaction is with one debtor versus
4 another.

5 So it just seems unnecessary to impose such harsh
6 requirements just for the filing of a reclamation demand as
7 opposed to establishing a procedure later on if the reclamation
8 demand ends up being contested. It certainly would be more
9 reasonable to only require at a later time that such document-
10 intensive requirements be satisfied.

11 The other thing that this procedures doesn't do is set
12 procedures for what happens if a reclamation demand has already
13 been served. For example, at least one of my clients has
14 already served a reclamation demand earlier today. And so are
15 they going to have another reclamation demand to the extent it
16 didn't comply with these procedures? Are they going to have to
17 recomply with it? And when would such a reclamation demand
18 actually have become effective?

19 So those are my concerns, Your Honor.

20 THE COURT: Okay.

21 Mr. Smolinsky?

22 MR. SMOLINSKY: Your Honor, just to address some of
23 those points, with respect to the detail that's required, I
24 mean, I think that that is the detail required by the statute,
25 which is quite specific as to what needs to be delivered. I am

1 sympathetic to the timing, but I think the most important thing
2 that we could do here is to put these procedures in process,
3 because you'll note if you look at the specific order
4 provisions there are notice places. The company has gone to
5 great strides to set up a command center in Michigan where
6 there are phone banks to address supplier issues, to address
7 contract issues, employee issues. And it's important that
8 everything gets funneled. This is a very large corporation.
9 The statement that they don't know which debtor they sold it
10 to, it's all General Motors; that's the only operating company
11 that's making cars.

12 So I think it's more important that we get the
13 procedure in place where everyone knows where to send the
14 notice to that when the notice comes in we know that we have to
15 contact the specific person at the plant to check the inventory
16 and to start working on the data that we need to demonstrate
17 whether this is a valid or invalid reclamation claim. If
18 people are going to start sending reclamation notices all over
19 the world, we're not going to be able to comply with what is, I
20 think, a strict statutory requirement in order to validate a
21 priority claim.

22 THE COURT: All right.

23 Everybody had a chance to speak their piece?

24 Ms. Adams?

25 MS. ADAMS: Thank you, Your Honor. For this motion,

1 and actually the next motion, which involves a procedure for
2 503(b)(9) claims, we would just recommend that both these
3 motions be heard after the appointment of a creditors'
4 committee so the committee can have their input on the motions.

5 THE COURT: I hear you, Ms. Adams, but the UCC imposes
6 deadlines for the submission of a reclamation demand. And as a
7 creditor might be at risk if it doesn't comply with the time
8 periods, do I have the luxury of waiting that long?

9 MS. ADAMS: It would only be to --

10 THE COURT: Leaving -- don't I need to decide at least
11 part of this at a sooner time?

12 MS. ADAMS: I would think that Your Honor could --
13 well, I don't know, obviously, Your Honor's schedule, and if
14 the matter could be heard Wednesday, but we will be appointing
15 the committee Wednesday, and hopefully they will be choosing
16 counsel.

17 MR. MILLER: Your Honor, it could be without prejudice
18 to whatever the committee comes up with.

19 THE COURT: Yeah, I think you're reading my mind,
20 Mr. Miller.

21 Does anybody else want to be heard?

22 And I'm going to issue an interim ruling on this now.

23 MS. ADAMS: That would be satisfactory, Your Honor.

24 THE COURT: Okay.

25 Folks, I'm going to grant the debtors' motion on an

1 interim basis subject to fine-tuning in one or two respects,
2 and the following are the bases for the exercise of my
3 discretion in this regard:

4 Anybody who's been around reclamation motions in an 11
5 where there are material vendor sales to a debtor knows that
6 reclamation litigation, if not properly managed, can have a way
7 of bogging down a debtor and its management and, for that
8 matter, vendors themselves in the early days of an 11. The
9 debtors' approach to getting one's arms around reclamation
10 litigation, especially since reclamation vendors so rarely
11 actually want their goods reclaimed and so rarely want them
12 back, and because so many of them are settled, clearly makes
13 setting up some kind of reclamation mechanism appropriate.

14 The principle concern that I heard, which is that the
15 debtor may be asking for information that's more extensive than
16 the UCC reclamation demand requires, I'm going to rule that
17 people can -- can and should -- make their reclamation demands,
18 file them at the place designated by the debtor so it can
19 manage them within the times that the UCC provides. From then
20 on, the debtor's more extensive motions -- mechanisms, excuse
21 me, for getting the information it needs to evaluate a
22 settlement, if possible, and to set up a gameplan for teaming
23 them up if they can't be consensually resolved can then kick
24 in.

25 Anybody who thinks he, she or it has a reclamation

1 demand should get it in by that time, and I'm going to permit
2 those things to be filed -- in fact, require them to be filed
3 at the place the debtor designates. Then the debtor's
4 mechanisms will be put in place so that the debtor's not going
5 nuts trying to manage reclamation demands and so that vendors
6 don't have to pay their lawyers a lot of money to deal with
7 things that can be easily consensually resolved.

8 This entire mechanism's without prejudice of the
9 rights of the creditors' committee or other parties-in-interest
10 to put their noodles together with the debtor to find a more
11 mechanically practical arrangement.

12 MR. SMOLINSKY: Absolutely, Your Honor.

13 THE COURT: Okay.

14 MR. SMOLINSKY: Thank you.

15 THE COURT: Anything else on reclamations?

16 Okay. Thank you.

17 MR. SMOLINSKY: Thank you.

18 THE COURT: Mr. Seidel?

19 MR. SEIDEL: Just a point of clarification. If my
20 client can't put its reclamation demand together because it
21 takes three days or four days to collect the data, is my client
22 prejudiced, or shall I or can I file whatever the UCC requires
23 today and fill it in in due course?

24 THE COURT: When you're talking about what the UCC
25 requires, you're talking about what might be helpful to meet

1 the debtors' requirements, because if it's what the UCC
2 requires I think you got to do it. If it's -- if the debtor is
3 trying to put you through anything that's beyond what the UCC
4 requires, I think I should cut you some slack on that. But a
5 reclamation demand puts your client ahead of other vendors
6 similarly situated, which is your right under the UCC and under
7 540 -- I think it's 6. But I can't rewrite the UCC. I don't
8 think I should rewrite the UCC, at least without opportunity
9 for parties to be heard.

10 MR. SEIDEL: Your Honor, I couldn't agree with you
11 more, but my issue really is a little bit different, Your Honor
12 focused on it before, and that is if the UCC would allow me to
13 make a demand without giving purchase orders, that would be a
14 good --

15 THE COURT: Whatever -- I ain't changing the UCC.

16 MR. SEIDEL: Thank you, Your Honor.

17 THE COURT: So whatever you're prepared to do in
18 compliance with the UCC, I wouldn't be the one to change that.

19 MR. SEIDEL: Thank you, Your Honor.

20 THE COURT: But it's without prejudice to the rights
21 of the debtor and the creditors' committee who thinks you
22 didn't comply with the UCC to be heard and your opportunity to
23 oppose.

24 MR. SEIDEL: Thank you.

25 THE COURT: Okay.

1 Mr. Karotkin?

2 MR. KAROTKIN: Thank you, sir. Your Honor, I'd like
3 to address the motion for the payment of foreign vendors.

4 THE COURT: Um-hum.

5 MR. KAROTKIN: Your Honor, the foreign vendor motion
6 is really an extension of the critical vendor motion. It has
7 all the issues Mr. Smolinsky alluded to in addition to the
8 fact, as you well know, that notwithstanding the universal
9 application of the automatic stay, it's difficult, if not
10 impossible, to enforce it in foreign jurisdictions. The issue
11 also applies not only to vendors but to foreign governmental
12 entities that might take remedial action and seize assets,
13 including goods and supplies that would be necessary to be
14 shipped to the United States for use in the debtors'
15 manufacturing operations.

16 For the reasons stated in the motion, as well as the
17 paragraphs of the Mr. Henderson affidavit to which
18 Mr. Smolinsky alluded, I believe there's ample basis for the
19 relief we're seeking.

20 THE COURT: All right. Pause, please, Mr. Karotkin.

21 Anybody want to be heard on foreign vendors or
22 governments?

23 No response.

24 Mr. Karotkin, this one, too, is granted. Folks who
25 have represented debtors or have been allied with them, like

1 their creditors' committees, know the difficulty in enforcing
2 the automatic stay. And the rights under the Bankruptcy Code
3 are broad. Preliminarily appropriate under the doctrine of
4 necessity. It's granted.

5 MR. KAROTKIN: Thank you, sir. The next motion, Your
6 Honor, is with respect to establishing procedures under Section
7 503(b)(9) of the Bankruptcy Code as to the resolution and
8 satisfaction of claims asserted under that provision of the
9 statute. The motion, Your Honor, is purely procedural. It
10 sets forth procedures to be followed by people or vendors
11 seeking rights under 503(b)(9). It is self-explanatory,
12 relatively easy to comply with. And I'm happy to describe what
13 the procedures are if the Court would like, but, again, it's
14 simply procedural. And I would just ask that the Court grant
15 the relief requested.

16 THE COURT: Anybody want to be heard on it?

17 No response. Granted.

18 MR. KAROTKIN: Thank you, sir. The next motion seeks
19 authorization for the payment of certain pre-petition shipping
20 and delivery charges for goods in transit, custom duties and
21 tooling and mechanics' lien charges. Just give me a moment,
22 Your Honor, to find the motion.

23 (Pause)

24 MR. KAROTKIN: Your Honor, at any given time, based on
25 the nature of the debtors' operation, there are countless

1 shipments en route to and from the debtors' various facilities.
2 Therefore, obviously, various shippers and warehousemen
3 currently are in possession of the debtors' goods that are
4 vital to their operations and, under applicable state law, have
5 rights as either mechanics' liens, shippers' liens or
6 warehousemen liens. So, effectively they are secured
7 creditors.

8 There are similar issues with respect to customs
9 duties that, if they are not timely paid, customs authorities
10 may demand liquidated damages, assess interest or impose other
11 sanctions.

12 And with respect to tooling, which is critical to the
13 ongoing business of the debtors, again, the suppliers who
14 furnish tooling under various state laws also have rights as
15 mechanics' liens or toolmakers' liens, and again would be
16 treated as secured creditors. Particularly with respect to
17 tooling, that item is vital to the ongoing operations of the
18 debtors. And, in fact, at the current time, there is tooling
19 related to two new vehicle launches, which the debtor certainly
20 must be in a position to be able to pay to make sure that that
21 launch is not held up.

22 Again, the basis for the relief is similar to critical
23 vendor type relief, critical to the ongoing operation of the
24 business and to maintain its value.

25 THE COURT: Anybody want to be heard on this one?

1 Granted. Doctrine of necessity. The same reasons as
2 we've gone over before, and also because it's giving away ice
3 in the winter when you're talking about making a payment to
4 somebody who's got a lien to protect them anyway.

5 MR. KAROTKIN: Thank you, sir. The next motion
6 relates to the payment of insurance obligations. This motion,
7 Your Honor, seeks authority to continue to pay premiums for the
8 debtors' normal liability property coverage insurance in the
9 ordinary course of business. There is a very de minimis amount
10 outstanding with respect to this insurance relating to the pre-
11 petition period. And in order to avoid any potential for the
12 termination of service -- I'm sorry, the termination of
13 insurance coverage, we would simply request authority to
14 maintain the existing insurance, be able to pay the premiums so
15 that we avoid any disruption.

16 THE COURT: Anybody want to be heard on it?

17 No response. Granted. To the extent it's not a
18 comfort order, it's appropriate under the doctrine of
19 necessity.

20 MR. KAROTKIN: Thank you, sir. The next motion, Your
21 Honor, relates to the payment of sales taxes, use taxes, gross
22 receipts taxes and similar type taxes which are outstanding
23 with respect to the pre-petition period. A number of these tax
24 obligations, Your Honor, impose personal liability on officers
25 and directors. And under the circumstances, the debtors don't

1 think it's appropriate to submit those officers and directors
2 to that type of risk. It's common relief granted in most
3 Chapter 11 cases. The motion explains in a fair amount of
4 detail the outstanding tax obligations we're talking about.
5 Unless Your Honor has any questions, I would -- in my view, the
6 motion establishes the basis for the relief.

7 THE COURT: I don't have questions.

8 Anybody want to be heard on it?

9 No response. I have never seen a case, at least in
10 this court, where such a motion wasn't granted. It's granted,
11 Mr. Karotkin.

12 MR. KAROTKIN: Thank you, sir.

13 THE COURT: I should qualify my last remark. I don't
14 think I've seen a motion anywhere where it hasn't been granted.

15 MR. KAROTKIN: The next motion, Your Honor, relates to
16 the preservation of the debtors' tax benefits and net operating
17 loss carry-forwards. That motion, again, explains in great
18 detail procedures involved to assure that the debtors' net
19 operating loss carry-forwards and other tax attributes,
20 including a substantial amount of foreign tax credits, are
21 protected and that that value is preserved for the benefit of
22 the estate. I will confess I don't purport to be able to
23 explain to you exactly the rationale and how it works --

24 THE COURT: What it takes to protect your 382 rights?

25 MR. KAROTKIN: -- and I hope you don't ask me any

1 questions.

2 THE COURT: Well, you've got the advantage that a lot
3 of your predecessor Chapter 11 debtors have plowed the fields
4 for you in this regard.

5 MR. KAROTKIN: Yes, I did know that. And I'm glad you
6 know that.

7 THE COURT: Some of them, I think, may be in this
8 room.

9 MR. KAROTKIN: But, again, it is self-explanatory. It
10 doesn't --

11 (Unanimous laughter)

12 THE COURT: All right, I'm going to grant this motion
13 on an interim basis. In this circuit, NOLs are plainly
14 protected as property of the debtor. And courts in this
15 district have very routinely provided for mechanisms to do a
16 stop, look and listen before any trading in claims or interest
17 may blow the debtor's NOLs.

18 This order is without prejudice to consideration to
19 see if anybody thinks that the order can be fine-tuned down the
20 road and without prejudice of anybody's ability to show that
21 any contemplated actions wouldn't adversely affect the debtors'
22 ability to protect its NOLs. But for now it's absolutely
23 essential to the welfare of everybody in this room, and many
24 who aren't this room, to have those NOLs protected.

25 MR. KAROTKIN: Thank you, sir.

1 THE COURT: It's granted.

2 MR. KAROTKIN: Thank you.

3 THE COURT: Mr. Smolinsky?

4 MR. SMOLINSKY: Thank you, Your Honor. Number 18 on
5 the agenda is the utility motion. Your Honor, this motion is
6 consistent with other motions utilized in this court in order
7 to comply with the newfangled utility statutes as a result of
8 the amendments in 2005.

9 Your Honor, the proposal is that we would pay a
10 deposit to those requesting utilities equal to two weeks of
11 utility services, which are calculated based on historical
12 average over the last twelve months. So we're not going to tag
13 them for the fact that our plants have been idled, or many of
14 them have been idled for the recent past. It'll be on a
15 twelve-month average.

16 Adequate assurance will be provided only if they make
17 a request that they don't already hold a deposit of at least
18 two weeks and they're not currently getting paid in advance for
19 utilities.

20 So, Your Honor, the process and the procedure -- and
21 the order has certain dates to be filled in if Your Honor is
22 inclined to approve the motion -- that we would be prepared to
23 mail out a notice to each of the utilities by tomorrow. They
24 would have approximately two weeks, at Your Honor's discretion,
25 to request a deposit. The utility -- if the utility believes

1 that the deposit offered is not adequate, the utility could
2 file an objection by, I guess, the same period of time. And
3 then a hearing would be held to determine whether or not the
4 utility deposit is adequate. And, obviously, we would use due
5 care to try to resolve those issues before coming back to
6 court.

7 THE COURT: All right. Anybody want to be heard on
8 this, on the 366 motion?

9 No response.

10 Mr. Smolinsky, the two weeks that you propose is
11 what's become customary in the Southern District of New York.
12 But with that said, in accordance with the majority rule in
13 this area, I think I got to give the utilities a hearing date
14 within the first thirty days to give me a chance to rule if
15 they don't agree with your recommendation.

16 So your motion is granted with the understanding that
17 you're going to get a date from Ms. Blum, my courtroom deputy,
18 within the first thirty days of the case before -- on or before
19 June 30th. Try to go a couple of days before that, if you can.
20 And it may be on a day separate from June 30th, which might be
21 used for other things, to give any utility that thinks its ox
22 is gored by your recommendation a chance to get judicial
23 rulings from me.

24 With that understanding, your motion's granted.

25 MR. SMOLINSKY: Thank you, Your Honor. So we will

1 fill in, for the date upon which they would have to request,
2 somewhere around the 14th of June.

3 THE COURT: Well, you can tell them that they got to
4 respond to you. But as I understand 366, even as amended under
5 BAPCPA, the debtor, the estate, everybody other than the
6 utilities, has a right to get a judicial determination from me
7 as to the appropriate size of the deposit if you regard the
8 utilities request as overreaching. And, of course, during that
9 thirty days they can't turn off the lights because they don't
10 like what you're proposing.

11 So, massage your order to put in that concept and
12 it'll be approved.

13 MR. SMOLINSKY: Thank you, Your Honor.

14 THE COURT: Okay.

15 Mr. Miller?

16 MR. MILLER: If Your Honor please, Harvey Miller. The
17 next motion, Your Honor, is a request for an order, pursuant to
18 Section 363 and related provisions, in connection with the
19 debtors' motion to approve sale procedures for the sale of
20 substantially all of its assets pursuant to the master sale and
21 purchase agreement with Vehicle Acquisition Holdings LLC, a
22 U.S. Treasury-sponsored purchaser.

23 All we're asking for here, Your Honor, is,
24 procedurally, for Your Honor to set the dates, as I explained
25 before. The dates that we have requested, Your Honor, is

1 objections -- my -- excuse me -- June 19th, a bid deadline of
2 June 22nd, and a hearing date on June 30th, convenient to the
3 Court.

4 THE COURT: In addition to approving the times, you
5 also want me to approve the bidding procedures that was an
6 attachment or somewhere --

7 MR. MILLER: Yes, Your Honor.

8 THE COURT: -- in your motion?

9 MR. MILLER: Yes, Your Honor.

10 THE COURT: Okay.

11 Anybody want to be heard on that one?

12 MR. JONES: Yes, Your Honor.

13 THE COURT: Come on up, please.

14 MR. JONES: May it please the Court, Your Honor.

15 David Jones, Assistant U.S. Attorney for the Southern District
16 of New York, representing the United States in this matter.
17 With me at counsel table is Assistant U.S. Attorney Matthew
18 Schwartz, who's also going to be point counsel for the
19 government in this matter, and John Rapisardi of Cadwalader
20 Wickersham & Taft LLP, counsel to the presidential Automotive
21 Task Force.

22 I rise in specific support of the sale procedure
23 motion to convey the government's full support of that motion
24 and, more broadly, to convey the government's strong support of
25 debtor and its first-day motions as a whole. And, Your Honor,

1 I'm just picking this as a relevant hook to say that. And I
2 just have a very few remarks.

3 The President of the United States today, Your Honor,
4 addressed the importance of this case to the nation's economy
5 to a multitude of American families and businesses and to the
6 government as it seeks to advance the common good. In light of
7 that broad public importance, the United States has devoted
8 enormous public resources in an attempt to achieve a
9 revitalized General Motors. Toward that end, the United
10 States, GM and numerous other stakeholders have engaged in
11 months of intensive arm's-length negotiations concerning the
12 terms on which the government is willing to provide both pre-
13 petition emergency financing and debtor-in-possession financing
14 now on terms that greatly benefit the estate.

15 The United States, therefore, is a critical
16 participant in these proceedings because it holds roughly 19
17 billion dollars in senior secured pre-petition debt as a result
18 of that pre-existing emergency financing that it has already
19 extended and also because the government has agreed on certain
20 conditions to provide an additional 33.3 billion dollars in
21 debtor-in-possession financing to the debtors.

22 Now, for purposes of the Bankruptcy Code, the United
23 States' participation in these cases is proper as well as vital
24 because it maximizes value to the estate and, indeed, confers a
25 great benefit on the estate that's not available from any other

1 source.

2 Quite simply, Your Honor, as debtors have amply
3 demonstrated, no other debtor-in-possession financing is
4 available. Thus, absent the United States' participation as
5 DIP lender, GM would face immediate liquidation. The United
6 States is willing to invest public money in debtor-in-
7 possession financing to avoid that result because a liquidation
8 would be devastating to our nation's economy and to many
9 individuals and businesses.

10 The government's willingness to provide this financing
11 is conditioned on there being a clear and effective roadmap
12 under which General Motors can be reconstituted into a viable
13 and thriving entrant in the automotive marketplace. GM is now
14 experiencing continuous losses that cannot be sustained, and
15 the government is not willing to bear those losses.

16 Thus, the government supports the sale procedure
17 motion immediately before the Court and the interrelated DIP
18 financing applications that will be presented. The
19 government's support is conditioned on this case reaching
20 clearly defined mileposts by dates that, while not easy to
21 achieve, are attainable.

22 Specifically, General Motors has determined, and the
23 United States agrees, that the best and only way for GM's
24 operations to continue and for the bankruptcy estate to achieve
25 maximum value is through a swift 363 sale process. Under that

1 process, GM's liable assets would be acquired by a government-
2 sponsored enterprise. The acquisition would be, at least in
3 large part, achieved through a credit bid. And the estate
4 would retain significant cash or equivalence to permit orderly
5 administration of the estate. This path is far and away the
6 best available way to maximize value for the estate.

7 For these reasons, the United States strongly supports
8 GM in these Chapter 11 cases. Time is of the essence, and we
9 urge prompt approval of the sale procedure motion to which I'm
10 immediately speaking and, more broadly, of the proposed debtor-
11 in-possession applications which will be before Your Honor
12 shortly. Thank you.

13 THE COURT: Sure.

14 Come on, please.

15 MR. ROSENBERG: Thank you. I think I'll be the last
16 "Good afternoon" of the day, Your Honor, before we head into
17 "Good evening". Andrew Rosenberg, Paul, Weiss, Rifkind,
18 Wharton & Garrison, on behalf of the ad hoc bondholders group.
19 Like the Treasury, I think this is just a good opportunity to
20 introduce ourselves and make our position clear. GM has
21 outstanding 27.2 billion dollars worth of bonds, face amount,
22 plus accrued interest, which brings it close to 28 billion
23 dollars. This makes the bondholders the largest unsecured
24 creditor group in this case.

25 Since December, my firm, Paul Weiss, has been

1 representing an ad hoc group of GM bondholders holding
2 approximately 20 percent of GM's debt -- or bond, excuse me,
3 and we've been in contact with billions more during that
4 period.

5 MR. ROSENBERG: Over the last week or so, we
6 negotiated a deal with the President's Auto Task Force and GM
7 providing for equity and warrants of what we'll refer to as New
8 GM to be distributed to bondholders and other general unsecured
9 creditors if the proposed sale goes through. The terms of this
10 are set forth in a term sheet between the Auto Task Force and
11 the bondholders. This term sheet was then attached to support
12 letters executed by holders of approximately 5.44 billion
13 dollars of GM bond debt through which those holders agreed to
14 support the proposed 363 sale on the terms set forth in the
15 term sheet.

16 Thereafter, a summary version of the term sheet was
17 filed by GM as an 8-K last Thursday morning. Our firm then
18 conducted what is best described as an e-mail poll of GM
19 bondholders asking if they supported the proposed 363 sale on
20 those terms. In just two days, approximately 1,000 holders who
21 held about over 5 billion dollars in GM bond debt --

22 THE COURT: Did you say 5 billion?

23 MR. ROSENBERG: -- indicated their support. Five
24 billion, Your Honor, and that was in just two days. And
25 additional, what I'll call, support letters are still coming in

1 each day.

2 In addition, GM had previously distributed, pursuant
3 to an S-4, an out-of-court exchange offer on far inferior terms
4 to those proposed by Treasury which offered -- we were told it
5 was accepted by approximately 15 percent of GM's bondholders
6 before it expired without being accepted by GM on 5/26. We
7 assume that those people who had accepted the offer on the S-4,
8 which is similar to the current offer but also far inferior,
9 would support the new offer proposed by Treasury. Essentially,
10 the new offer just adds substantially to the old offer but is
11 similar in that it's equity-based.

12 Now, all told, when you combine the holdings of those
13 who executed support letters, provided e-mail support or
14 accepted the S-4 exchange, that makes about 54 percent of GM
15 bondholders who we believe can say support the proposed 363
16 sale and, most importantly, would like to see it concluded
17 quickly.

18 That being said, obviously we've not had an
19 opportunity yet to review the actual sales contract and other
20 documents that will be implementing this deal. But, as far as
21 support is somewhat conditional, but we're confident, between
22 now and the time of the final sale hearing, that those deals
23 will be worked out and any conditionality to our support will
24 be gone. Thank you, Your Honor.

25 THE COURT: Okay, thank you.

1 Mr. Sullivan, is it?

2 MR. SULLIVAN: Yes.

3 THE COURT: Come up, please.

4 MR. SULLIVAN: James Sullivan, again, of Arent Fox,
5 counsel for Timken, Superior and Harman. I just have two very
6 minor tweaks, Your Honor, that I would request. One is that
7 any contract assumption and assignment notice be served upon
8 counsel of record. That was a change that was made to the
9 bidding procedures order in the Chrysler matter, and I would
10 hope that a similar provision could be interlineated in this
11 order.

12 THE COURT: Pause, please, Mr. Sullivan. You mean on
13 counsel of record as contrasted to the underlying business
14 entity?

15 MR. SULLIVAN: No, in addition to, Your Honor.

16 THE COURT: Oh, in addition to?

17 MR. SULLIVAN: Oftentimes, in my experience,
18 especially in connection with the Delphi case, Your Honor, my
19 experience was that a lot of the notices were sent to offices
20 where there might have been manufacturing facilities, or
21 really, was sent to places where people didn't really know what
22 to do with them. So I think that a simple fix to that is by
23 having a mechanism whereby counsel of record is also notified,
24 and that would help avoid a lot of confusion.

25 THE COURT: Uh-huh. Continue, please.

1 MR. SULLIVAN: The second one, Your Honor, is I
2 noticed that there's a procedure in place for the payment of
3 cure payments by the closing of the sale or as soon as
4 practicable thereafter. I noticed there's no outside deadline.
5 I thought, similar to the Chrysler sale, perhaps a deadline of
6 perhaps ten days could be imposed as an outside deadline just
7 to make sure that it doesn't drag on.

8 THE COURT: On loan cure payments or payments where
9 you got to do some caucusing or study to find out what the
10 exact cure payment is?

11 MR. SULLIVAN: These would be undisputed, Your Honor.
12 I think there's a mechanism in place for resolution of disputed
13 claims, and so that's not what I'm contemplating here, Your
14 Honor.

15 THE COURT: Um-hum. Okay. Before I give the debtors
16 a chance to comment on Mr. Sullivan's thoughts, does anybody
17 else want to be heard for the first time?

18 Ms. Ceccotti, is it?

19 MS. CECCOTTI: Yes, Your Honor, Babette Ceccotti for
20 the auto workers. This is actually in the nature of
21 administrative. But among the notices that the Court is being
22 asked to approve in connection with the bidding procedures
23 order is notice with respect to UAW-represented retirees. And
24 in looking at the materials as filed today, we noticed some
25 edits that we think need to be made. But rather than take up

1 the time here, my suggestion would be that we confer with
2 debtors' counsel regarding the edits that we think are needed.
3 And before they submit the paperwork, I just wanted to make
4 sure that we had made that notation. I don't see the need --

5 THE COURT: Well, can I throw out the suggestion that
6 you would caucus with the debtors? And I sense from the tone
7 about what you said that you're pretty comfortable that you can
8 work it out.

9 MS. CECCOTTI: I think so, yes.

10 THE COURT: And if you can't, you can get on the phone
11 with me.

12 MS. CECCOTTI: Yes, I think that'll be fine, Your
13 Honor.

14 THE COURT: Okay.

15 MS. CECCOTTI: Thanks.

16 THE COURT: Okay.

17 Ms. Adams?

18 MS. ADAMS: Your Honor, during earlier discussions
19 with Mr. Miller, I believe he was going to make some statement
20 about reserving the rights of the creditors' committee to have
21 discussions or alter or amend the procedural motion.

22 THE COURT: All right, maybe after everybody speaks
23 the first time, that can be clarified or confirmed.

24 MS. ADAMS: Thank you, Your Honor.

25 THE COURT: Okay.

1 And -- yes, sir?

2 MR. EDELMAN: Your Honor, Michael Edelman for Export
3 Development Canada.

4 THE COURT: I'm sorry --

5 MR. EDELMAN: Oh, sorry.

6 THE COURT: -- Edmond was it?

7 MR. EDELMAN: No, Michael Edelman --

8 THE COURT: Oh, I'm sorry, Mr. Edelman. Okay.

9 MR. EDELMAN: -- from Vedder Price, representing
10 Export Development Canada.

11 THE COURT: Right.

12 MR. EDELMAN: We also support the 363 sale process.
13 We believe that this is the optimal means to assure the
14 continuation of the General Motors business, the preservation
15 of the employment of hundreds of thousands of people both
16 within GM and across many industries and companies. This
17 preserves an icon both in the United States and in Canada, and
18 all of North America, and actually in many other countries.
19 This preserves the manufacturing base.

20 In sum, we think this is a very optimal motion and
21 support a quick sales procedure. Export Development Canada is
22 supporting the debtors here and has committed to make over
23 3 billion dollars of debtor-in-possession financing here and is
24 providing multibillion-dollar support prior to the sale in
25 Canada and affiliated companies. So we support the process.

1 THE COURT: Okay.

2 MR. EDELMAN: Thank you.

3 THE COURT: Thank you, Mr. Edelman.

4 All right, before I give Mr. Miller a chance to
5 comment, anybody else want to be heard for the first time?
6 Okay, Mr. Miller, looks like we just have some nits and gnats
7 here to resolve.

8 MR. MILLER: Well, first, Your Honor, we sincerely
9 appreciate the support of everybody who stood up, and in
10 particular the ad hoc bondholders committee, which, I think, is
11 a monumental step forward from where we were ten days ago.

12 Your Honor, in connection with the service upon
13 attorneys of record, I'm not sure I quite understand the tweak
14 that is required. Is it an attorney of rec --

15 THE COURT: I think he's nervous that if you send a
16 notice to a lockbox or businesspeople that they're not going to
17 respond quickly enough, and that if you know who to send the
18 cure notice to -- I mean, if you send it to a lawyer it's going
19 to get more thoughtful attention.

20 MR. MILLER: The only problem, Your Honor, there's
21 over 400,000 contracts. And if we're just limiting it -- I
22 don't know whether this is the case, Your Honor. Do we just
23 limit it to attorneys who file a notice of appearance in this
24 proceeding? Or what is the definition of "attorney of record"?

25 THE COURT: Well, I'm not sure if Mr. Sullivan

1 clarified that in his comments, but if you're looking for the
2 ability to narrow it down to a fixed group and not have to send
3 400,000, I'm sensitive to that concern and I would think we
4 could skin that cat.

5 MR. MILLER: We would not have a problem, Your Honor,
6 if attorneys representing Timken, or whoever, sent us a notice
7 of designation, or whatever you want to call it, and we will
8 see to it that they get service of whatever papers and
9 pleadings are appropriate.

10 THE COURT: Is it possible for you to provide an
11 e-mail address or a snail-mail address for them if they want
12 you to give the notice to a lawyer --

13 MR. MILLER: Absolutely.

14 THE COURT: -- where you can receive it?

15 MR. MILLER: Absolutely.

16 THE COURT: Okay.

17 MR. MILLER: We'll undertake to do that.

18 THE COURT: Mr. Sullivan, I'll give you a chance when
19 Mr. Miller's done.

20 MR. MILLER: Okay, in terms of the paying of the cure
21 amounts, Your Honor, there is a procedure set up in the motion
22 that is spelled out. I don't necessarily believe, Your Honor,
23 that everything that was done in Chrysler has to be done here.
24 There is a very detailed procedure that is set out. If there
25 are problems with that, Your Honor, we have no problem about

1 sitting down with Mr. Sullivan or whoever and trying to work
2 those things out. But there is a process that has been
3 successful in other cases, and that's what we adapted, Your
4 Honor.

5 THE COURT: Um-hum. Why don't you just deal with
6 Ms. Adams' concerns.

7 MR. MILLER: Ms. Adams is absolutely correct, Your
8 Honor. This is an interim order. It's without prejudice and
9 full reservation of rights on behalf of the committee, which
10 I'm sure, if there are any tweaks or any problems with the
11 committee, we will be able to iron them out, just as we will,
12 Your Honor, with the UAW.

13 THE COURT: Okay.

14 Mr. Sullivan?

15 MR. SULLIVAN: Your Honor, I think you've actually
16 pretty well addressed my concerns, but I had one more
17 suggestion which I think might be helpful to some. Perhaps
18 with very little effort the debtors could file some document on
19 ECF which indicates that notices were sent out, and just have a
20 listing of all the suppliers.

21 THE COURT: 400,000 of them?

22 MR. SULLIVAN: No, I don't believe that there's that
23 many suppliers, Your Honor. I bet you, there's probably less
24 than a thousand or --

25 MR. MILLER: It's over 400,000 contracts.

1 MR. SULLIVAN: Right, but how --

2 MR. MILLER: We're talking about assumption and
3 rejection of contracts.

4 MR. SULLIVAN: Yeah, I wasn't suggesting that they
5 actually list out all the contracts, Your Honor, but just list
6 out maybe -- if it's too diffi -- if the other way's easier,
7 that's fine, Your Honor, but I was just suggesting that if they
8 know, for example, that there's 800 suppliers to whom they sent
9 notices to, if they just happen to file, like, a --

10 THE COURT: All right.

11 MR. SULLIVAN: -- certificate of service listing out
12 the entities, and then the lawyers who represent those entities
13 can take whatever steps they feel are appropriate to try to
14 make sure that they get a copy of the notices.

15 THE COURT: Yeah, folks, you have to understand that I
16 personally am not in a position to come and play Let's Make a
17 Deal. In a case of this type, there's so much on the line we
18 have to keep our eye on the ball, which is, saving the
19 business, saving as many jobs as we can, saving as many
20 suppliers as we can, saving as many dealers as we can. And
21 though I'm sensitive to people's individual needs and concerns,
22 we have to strike a fair balance between fairness and
23 procedural due process, and not driving the debtor nuts, and
24 not imposing requirements that are going to take money out of
25 the pockets of creditors.

1 What I am prepared to do is to require the debtor to
2 make publicly available, such as by an ECF filing, an address
3 or e-mail address or some place or person to whom anybody who
4 wants what you're looking for can send a request.

5 Mr. Sullivan, you can send it to that address, and
6 your needs and concerns will be satisfied. And if there's
7 anybody else who feels the way you do, then the debtor isn't
8 going to have to go through 400,000 contracts or focus on 1,000
9 individual vendors to meet needs that can be handled more
10 expeditiously. That's my ruling.

11 MR. SULLIVAN: I appreciate it, Your Honor.

12 THE COURT: Thank you.

13 MR. SULLIVAN: My goal was just to make it easier. I
14 was not trying to create --

15 THE COURT: I understand, and I place no particular
16 fault with you. It's just -- and I hope I'm not being brusque
17 by this, but I do think that in this case we have to keep our
18 eye on the ball.

19 MR. SULLIVAN: Thank you, Your Honor.

20 THE COURT: Thank you.

21 Mr. Miller?

22 MR. MILLER: Thank you, Your Honor. I would just
23 note, Your Honor, we have to get this order entered and this
24 process started within the next two days or it's actually a
25 default under the DIP. So we will work as efficiently, but the

1 direction that Your Honor just gave in terms of the
2 publication, could that be the subject of a separate order?

3 THE COURT: Oh, sure.

4 MR. MILLER: Okay. All right. And we will deal, Your
5 Honor, with Ms. Babette (sic).

6 THE COURT: I'm not talking about a publication in the
7 sense of newspaper publication.

8 MR. MILLER: No.

9 THE COURT: I'm talking about a one-page filing --

10 MR. MILLER: On a Web site, Your Honor.

11 THE COURT: -- to give a first-year associate to say
12 if you've got a desire to be heard on a cure amount send it to
13 whoever you designate.

14 MR. MILLER: I would also add, Your Honor, as
15 Mr. Smolinsky noted, the company has set up an enormous
16 communication system. There are people who will deal with
17 dealers; there are people who will deal with suppliers. It is
18 one of the most comprehensive communication systems I have ever
19 seen in a Chapter 11 case.

20 So any supplier, such as Timken, can call GM. There
21 are people there who will be there on the business side of it,
22 on the legal side of it, and get this -- there will be enormous
23 amount of information available, Your Honor. But we will --

24 THE COURT: Okay.

25 MR. MILLER: - follow Your Honor's direction and enter

1 a separate order.

2 THE COURT: You can bifurcate them, if you wish.

3 MR. MILLER: Thank you, Your Honor. The next matters,
4 Your Honor, are numbers 20 and 21, Your Honor. They relate --
5 both of them relate -- they're both requests for interim orders
6 in connection with the granting of the use of cash collateral
7 and granting adequate protection. The first one, Your Honor --

8 THE COURT: Would it be a problem for you if you dealt
9 with cash collateral first?

10 MR. MILLER: Cash collateral?

11 THE COURT: Yes.

12 MR. MILLER: Yes, Your Honor. The first one relates
13 to the revolver debt, which is held -- or is agented by
14 Citigroup -- or Citibank. The total outstanding amount there
15 is approximately 4. -- I'm rounding it off, Your Honor, 4.6
16 billion dollars plus some hedging obligations.

17 The proposal, Your Honor, is that the debtors-in-
18 possession would be able to use cash collateral subject to
19 certain terms and conditions which are agreeable, Your Honor,
20 to the secured creditors. Under the proposed transaction under
21 Section 363, Your Honor, the revolving credit banks will be
22 refinanced out, and the U.S. Treasury will take over that
23 position.

24 So it's a fairly simple one. Within forty-five days,
25 Your Honor, post-petition, they have to be taken out,

1 essentially.

2 THE COURT: The cash collateral is a very clean order.
3 It's much better than some of those that I've seen recently. I
4 just have one or two questions on particular issues, and I
5 wonder of Mr. Pantaleo is the best guy to come up to answer
6 those questions.

7 MR. MILLER: On a revolver, absolutely, Your Honor.

8 THE COURT: Well, I think the same language is on the
9 term -- is Mr. Toder (ph.) here, or one of his partners?

10 MR. MILLER: Mr. Toder is always here, Your Honor.

11 THE COURT: All right, Mr. Toder, you can get ready.
12 If Pantaleo doesn't answer the questions to your satisfaction,
13 maybe you can try to do better.

14 MR. TODER: I'm moving up, Your Honor.

15 MR. PANTALEO: Good evening, Your Honor. Peter
16 Pantaleo, Simpson Thatcher, for Citicorp as agents under the
17 first-lien revolver facility.

18 THE COURT: Mr. Pantaleo, as I indicated, this is a
19 far better cash collateral order than I usually see. You
20 and/or the debtor and/or Mr. Toder properly made the adequate
21 protection payments tied to the diminution in the collateral
22 value. And then you also provided, as is customary for secured
23 lenders, that under the name of adequate protection we pay
24 current interest, attorneys' fees, miscellaneous costs and the
25 like.

1 MR. PANTALEO: That's right.

2 THE COURT: In the last half dozen or so cash
3 collateral orders that I've looked at and approved in mega
4 cases, I've authorized payments of interest and attorneys' fees
5 as part of the adequate protection process, but we've written
6 into the order that those payments would be on account of the
7 adequate protection obligation. And I'm wondering if there's
8 some reason why you might have a problem with that.

9 As I said, that was how it turned out. If you're
10 oversecured, as you seem to be, and especially if you get
11 cashed out in forty-five days, I think what I'm asking for is
12 going to be immaterial. But history has taught me that every
13 time that I or one of my colleagues approves something in a DIP
14 order or a cash collateral order, it becomes inscribed in the
15 history of this Court for the next matter. And as long as you
16 get the money, do you care?

17 MR. PANTALEO: I don't think so. I think -- if I can
18 make certain I understand what Your Honor said, I think what
19 Your Honor is saying is that we would receive adequate
20 protection payments that would be equal to an amount that
21 tracks interest, et cetera. But you are not making a
22 particular finding that we are actually getting paid interest?

23 THE COURT: Yes, sir, and I'm not making a finding
24 that that is equivalent to the diminution in your collateral
25 value.

1 MR. PANTALEO: No, that is fine, Your Honor.

2 THE COURT: Right.

3 MR. TODER: Agreed.

4 THE COURT: Very good. Thank you, Mr. Toder.

5 Lastly, and I have the U.S. government here in a
6 different capacity, and if they're telling me they can act for
7 the entire U.S. government and not just Treasury, that may moot
8 this. But as is customary, again, you and Mr. Toder asked for
9 CERCLA findings and that you're not a control entity. I
10 normally don't grant those without notice to the EPA, which
11 happens to be the U.S. Attorney's Office in the Southern
12 District of New York most of the time. Do you guys want
13 special notice of that? Do you care? Otherwise, I would say,
14 subject to the opportunity for the U.S. government to be heard
15 at the final, you get the CERCLA protection.

16 MR. JONES: Your Honor, we have been discussing
17 language and have equivalent language in the DIP -- or have
18 been talking, at least, about the insertion of equivalent
19 language in the DIP provisions. I guess what I'd like to do,
20 and I didn't have the opportunity to speak to Mr. Pantaleo, is
21 carry the possibility of curative language on this issue over,
22 for now --

23 THE COURT: If you're asking for that protection in
24 your hat as a DIP lender, I assume that the interests in your
25 EPA hat that you're trying to protect aren't as critical.

1 MR. JONES: Your Honor --

2 THE COURT: But if you want to have the dialogue with
3 Mr. Pantaleo and Mr. Toder, maybe what I'll say is whatever you
4 guys can consensually resolve is okay with me.

5 MR. JONES: I'm sorry. Your Honor, I should be clear.
6 In our capacity as DIP lender, we asked for less protection.
7 We asked for the limitation on responsible party --

8 THE COURT: Okay, well, that makes it more relevant.

9 MR. JONES: -- versus exclusions that ordinarily --
10 that were written in. All I'm saying is, for purposes of the
11 cash collateral order, in my capacity as lawyer for the United
12 States as a whole, as opposed to Treasury and the Auto Task
13 Force, this is an issue that has been identified and not nailed
14 down as to where we're going to go. We'd appreciate the
15 opportunity simply, for whatever happens today, to be without
16 prejudice to possibly revisiting that.

17 THE COURT: Mr. Toder or Mr. Pantaleo.

18 MR. TODER: Yeah, I think so, Your Honor. I would
19 just comment that if there's one case that we're dealing with
20 GM where there's not a CERCLA issue in terms of our control of
21 the entity, it's got to be GM. So this one ought to be easy
22 and won't act as precedent for too many other cases. John, of
23 all people, you know that.

24 We'll leave it that way, and if you have a problem,
25 let us know.

1 THE COURT: I hope you guys understood what Mr. Toder
2 just said.

3 MR. PANTALEO: No idea.

4 THE COURT: I understand the underlying issue, and I
5 understood what the lenders were looking for. And I must say
6 that after the EPA is given notice, I don't think I've ever
7 denied it on a final. But with that said, if the concept is
8 that it's going to be in there now but subject to
9 reconsideration at the final, is that what's proposed?

10 MR. PANTALEO: That's fine, Your Honor.

11 THE COURT: Okay.

12 Is the government okay with it?

13 MR. JONES: Yes, Your Honor. Thank you, that's fine.
14 And it may be a nothing, but we're just not certain.

15 THE COURT: Okay.

16 And, folks, that's all I had on the cash collateral
17 order.

18 MR. PANTALEO: Your Honor, if I just -- a couple of
19 brief comments on this, if it's okay with Your Honor.

20 THE COURT: Yeah, certainly.

21 MR. PANTALEO: First, just to explain the forty-five
22 days so Your Honor has context, Mr. Miller had described that
23 the expectation is that if not the actual -- it's a working
24 understanding is that the lenders would be refinanced in full
25 within forty-five days. Just so Your Honor understands the

1 context, before bankruptcy, in discussions with both government
2 and with General Motors, we had agreed to amend our revolving
3 credit facility to effectively, for a forty-five day period,
4 waive default interest, which under our facility is five
5 percent, fairly --

6 THE COURT: Five percent over the --

7 MR. PANTALEO: Exactly.

8 THE COURT: -- circled rate?

9 MR. PANTALEO: Exactly. Five percent. And so we had
10 agreed that for a forty-five day period the default rate
11 wouldn't apply provided that at the end of that period, either
12 from proceeds from DIP financing or a sale, we don't really
13 care, the first lien facility is paid indefeasibly in full and
14 in cash at that point. And that's the genesis behind the
15 forty-five day provision.

16 And, Your Honor, this -- for a similar reason, this
17 cash collateral order, by its terms, is only a forty-five day
18 order; the expectation was that. And not to take away from the
19 compliment I think Your Honor may have been paying us about a
20 clean order, the expectation is that we could afford a clean
21 order, a simple order, because this is a forty-five day
22 process. We didn't seem to need to belabor it with a lot of
23 other provisions.

24 If the unlikely happens, and it turns out we need a
25 much more lengthy period of consent for cash collateral, there

1 may be, in fact, a few provisions that we would request in here
2 in exchange for an extension of that forty-five day period.
3 But I just wanted to mention that to Your Honor so that Your
4 Honor isn't surprised if we come in with something that's a
5 little bit more complicated after forty-five days. Thank you,
6 Your Honor.

7 THE COURT: Okay.

8 MR. TODER: Let me just add, I think he --

9 THE COURT: Mr. Toder.

10 MR. TODER: -- I think Mr. Pantaleo said it just
11 perfectly. I'd just note that the same five percent default
12 rate of interest is contained in the term loan documentation,
13 and indeed the provision on the forty-five days is contained in
14 the order which is before Your Honor at this time.

15 THE COURT: Uh-huh.

16 Mr. Miller?

17 MR. MILLER: The lenders are so gracious, Your Honor.

18 THE COURT: All right.

19 MR. MILLER: I think that was the shortest brief --

20 THE COURT: You can continue. I think where we left
21 off is that I had just approved the cash collateral order
22 subject to the tweaking in the respects -- Mr. Sullivan?

23 MR. SULLIVAN: Your Honor, I'm sorry. I wanted to be
24 heard briefly, if you don't mind.

25 THE COURT: On the cash collateral order?

1 MR. SULLIVAN: Very briefly. It also pertains to the
2 DIP financing, so I may as well address it together, my small
3 concern. The concern, obviously, Your Honor, is with respect
4 to the setoff rights and reclamation rights of trade vendors.
5 To the extent that either the cash collateral order or the DIP
6 financing order were to impair those rights and those rights
7 had value, we would just request either that nothing in the
8 order, at least on an interim basis, affect those rights, or
9 that such rights receive some form of adequate protection, such
10 as a junior lien or an administrative claim, to the extent of
11 any such diminution in the value.

12 THE COURT: Well, I don't think you need the debtor to
13 respond on this, unless it wants to. There's a lot of case law
14 on the extent to which financings can, on the one hand, trump
15 the reclamation rights so the others cannot. I'll give you a
16 reservation of rights to argue whatever you think the law is,
17 and everybody else's rights to argue to the contrary. But I
18 see no basis for giving you adequate protection or anything of
19 that sort.

20 And if in lieu of getting whatever you think you want
21 in adequate protection at the final, you can ask for it then,
22 I'll broaden your reservation of rights to get that. But aside
23 from the fact, at the very least, that assuming, arguendo, that
24 there is ever an entitlement to adequate protection for a
25 reclamation right and that it can trump the rights of secured

1 lenders, wouldn't you think you'd have to show your entitlement
2 under the UCC to a reclamation claim?

3 MR. SULLIVAN: Your Honor, I wasn't suggesting that
4 any such rights were senior to any senior secured creditor,
5 Your Honor, with respect to reclamation. With respect to
6 set --

7 THE COURT: Well, if that's true, then you've got the
8 government's 33 million bucks or there -- or actually it's 15
9 at this point -- of DIP financing ahead of you. There are 19.4
10 in pre-petition -- 19.4 billion in pre-petition ahead of you?
11 I think there are some junior secured? And -- look, if you
12 want the reservation of rights, you can have it. I am kind of
13 telegraphing the questions that I would be asking at the
14 beginning of any oral argument if we ever got to a further
15 litigation over this issue.

16 MR. SULLIVAN: I'm well aware of the issues, Your
17 Honor. And no investigation has been done. I'm just here
18 basically trying to preserve my rights with respect to the
19 reclamation issue. With respect to the setoff issue, there's
20 really no reason why -- and to be fair, I only was looking at
21 the motion on the way down here; I haven't had a chance to
22 study the agreement thoroughly. But I don't think that there's
23 any reason why any of the cash collateral or DIP financing
24 motions should impair setoff rights to the extent that any such
25 rights are valid with respect to any contracts. Those

1 contracts should not be impaired by this. And to the extent
2 that they are somehow impaired, there's no reason why such
3 rights could not receive some form of adequate protection
4 similar to the rights of the secured lenders in the cash
5 collateral order.

6 THE COURT: Well, I don't know. Mr. Miller, do you
7 want to respond to it now, his latter point, or --

8 MR. MILLER: No, Your Honor. I think Your Honor said
9 it much better than I could say it. If he wants to have a
10 reservation of rights, whatever those rights may be, which I
11 think are highly suspect --

12 THE COURT: Mr. Sullivan, let his -- and come closer
13 to the microphone, please --

14 MR. MILLER: -- which I think are highly suspect,
15 that's fine, Your Honor. I think we should move on.

16 THE COURT: All right. I think we need to move on as
17 well. You got the reservation of rights by consent. And if
18 this is still an issue at the time of the final, both of you or
19 your designees can address it then.

20 MR. MILLER: Thank you, Your Honor.

21 MR. SULLIVAN: Thank you, Your Honor.

22 THE COURT: Okay. Oh, DIP financing?

23 MR. MILLER: We can go to DIP financing, Your Honor.

24 THE COURT: Or did you -- at your pleasure,
25 Mr. Miller.

1 MR. MILLER: We're on the subject, Your Honor, so we
2 might as well --

3 THE COURT: Okay.

4 MR. MILLER: -- take -- it's item 24. There's an
5 extensive motion that has been filed for the DIP financing. As
6 previously alluded to, the contemplated DIP financing is 33.3
7 billion dollars. What we are asking for here, Your Honor, is
8 interim financing of a maximum of 15 billion dollars for the
9 next twenty or twenty-one days, depending on what day Your
10 Honor picks for the final hearing on the DIP.

11 We have reviewed the motion, Your Honor, with the
12 Office of the United States Trustee. I think there are still
13 several issues outstanding -- am I correct -- in terms of the,
14 let me call them the burial expenses.

15 THE COURT: Come to the main mic, please, Ms. Adams.

16 MS. ADAMS: After speaking briefly with Mr. Rapisardi,
17 I think we have come to an agreement on all of our issues, and
18 the order just has to be modified.

19 THE COURT: Okay. Are they of a level that would hit
20 my radar screen, or do you want to talk about them, or are they
21 just the wordsmithing that careful lawyers do?

22 MS. ADAMS: Your Honor, one would be expenses for --
23 in case a trustee were ever appointed, there'll be a
24 carve-out --

25 THE COURT: So that's just adding the carve-out, of

1 that character?

2 MS. ADAMS: Exactly, Your Honor. And a turnover of
3 the expense records for the attorneys for the DIP lenders. I'm
4 trying to think is there another one. And the no lien on the
5 avoidance actions under Chapter 5, pending the final order.

6 THE COURT: Um-hum.

7 Mr. Rapisardi, do you want to comment on what
8 Ms. Adams said yet, or -- oh, I'm sorry, Mr. Jones?

9 MR. JONES: Oh, I'm sorry, Your Honor.

10 THE COURT: You're the spokesman for your --

11 MR. JONES: Yeah, Your Honor --

12 THE COURT: -- colleagues?

13 MR. JONES: Yes, Your Honor. Poor Mr. Rapisardi is
14 silenced by the fact that Congress says only the Justice
15 Department can represent the government. But I can confirm
16 that that agreement is in place.

17 THE COURT: Well, you want to hand off to
18 Mr. Schwartz? I guess he can do it too.

19 MR. JONES: Yeah, I'm sure he'll have his day, and
20 perhaps more than one. But, for now, we can just confirm that
21 that agreement is in place as described. Thank you.

22 THE COURT: Fair enough.

23 Mr. Miller?

24 MR. MILLER: With that, Your Honor, I don't believe
25 there's any objection to the interim DIP.

1 THE COURT: Okay. Mr. Edelman, do you want to be
2 heard on DIP?

3 MR. EDELMAN: We support the DIP. We would just
4 like -- we're a co-DIP lender, and we just haven't seen those
5 modifications. If we could just see those?

6 MR. MILLER: We'll talk through these --

7 MR. EDELMAN: Yeah --

8 MR. MILLER: -- before an order submitted.

9 THE COURT: Okay.

10 All right, anybody else want to be heard on the DIP?

11 Okay. Subject to making a conforming change on the
12 DIP on the adequate protection on account of, this DIP is also
13 approved.

14 MR. MILLER: Thank you, Your Honor.

15 THE COURT: And, Mr. Miller, I realize that I -- I
16 apologize, I never gave you a formal ruling on your sale
17 procedures motion.

18 MR. MILLER: I thought you did. I'm sorry, Your
19 Honor.

20 THE COURT: But it is approved.

21 MR. MILLER: Thank you. You had me nervous there for
22 a moment, Judge.

23 THE COURT: No. We got sidetracked somehow. But it
24 is approved, and put in the dates you recommended.

25 MR. MILLER: Thank you, Your Honor.

1 THE COURT: Okay.

2 Mr. Smolinsky?

3 MR. SMOLINSKY: Your Honor, Joe Smolinsky of Weil
4 Gotshal & Manges. Before I tackle what I believe are the last
5 two items today, I have one housekeeping item. I would like to
6 move for the admission of Robert Weiss and Tricia Sherick, both
7 of the firm of Honigman Miller Schwartz and Cohn LLP. We filed
8 earlier today a motion and certification with respect to their
9 admission. They are acting as special counsel and conflict
10 counsel in certain regards in this case. And before we
11 overstay our welcome, they need to file some papers. So I'd
12 like to get them admitted. And I have some orders with me.

13 THE COURT: All right. They're duly admitted in some
14 other jurisdiction?

15 MR. SMOLINSKY: Yes. Michigan, Your Honor.

16 THE COURT: Fair enough. Welcome. Where are they?
17 Welcome, folks.

18 MR. SMOLINSKY: If I may?

19 THE COURT: Yes. Well, give them to Ms. Blum when
20 we're all done, Mr. Smolinsky.

21 MR. SMOLINSKY: Thank you, Your Honor.

22 THE COURT: Okay.

23 MR. SMOLINSKY: There are two related motions relative
24 to the debtors' interactions with GMAC LLC. One is a motion to
25 seal certain agreements. And, Your Honor, this morning, maybe

1 late this morning, we delivered to your chambers a binder of
2 the agreements that we're seeking to seal today. We believe
3 that these agreements contain confidential commercial
4 information. We have no desire to keep these agreements from
5 the committee, for example, Your Honor, but believe that we
6 would like to protect them from certain distributions.

7 THE COURT: Okay, on the sealing matter, anybody want
8 to be heard on that?

9 Ms. Adams, I think I know what you're going to say. I
10 dealt with this issue with Ms. Nakano in a couple of my other
11 cases.

12 MS. ADAMS: Maybe it's a pleasant surprise, Your
13 Honor. It appears to us to fall within the confines of Section
14 107.

15 THE COURT: Okay. That's likely to make the issue go
16 away.

17 The sealing motion is granted, but we're going to put
18 the language in the sealing order that I've customarily
19 required to respond to earlier U.S. Trustee's objections.
20 You're authorized to file whatever under seal, subject to
21 further order of the Court, and that the order is without
22 prejudice to the rights of any party-in-interest or the U.S.
23 Trustee to seek to declassify and make public any portion of
24 the material filed under seal and the rights of any other
25 party-in-interest to approve such a request.

1 This seems to be a no-brainer circumstance where
2 sealing it is appropriate, but in other cases, not this one,
3 we've had some issues vis-a-vis overclassification,
4 oversealing. And especially in cases of public importance, we
5 judges have to have the ability to protect what needs to be
6 protected and to revisit that which doesn't need to be
7 protected.

8 So the sealing motion's granted. And until and unless
9 I rule to the contrary, it stays under seal.

10 MR. SMOLINSKY: Thank you, Your Honor. Moving to the
11 substantive motion, as set forth in the motion, a significant
12 portion of the debtors' wholesale, retail and other related
13 product financing received by GM dealers and their customers
14 are provided through GMAC. Related thereto, GM and GMAC are
15 parties to dozens of agreements that govern their longstanding
16 financing and operating relationship. These are commonly known
17 to us as the operative documents.

18 Your Honor, I could safely say, after sitting in rooms
19 with GMAC for quite some time, that despite being former
20 affiliates we entered our discussions on our ongoing
21 relationship at arm's length and certainly in good faith.

22 THE COURT: Knowing GMAC's counsel, I don't doubt
23 that.

24 MR. SMOLINSKY: Your Honor, I think we all knew going
25 into our discussions that one could take the argument that

1 these agreements are financial accommodations. I think we all
2 understood that GMAC needs GM, and GM needs GMAC. And from
3 GM's perspective, and I think Mr. Henderson's affidavit speaks
4 volumes, there really is no alternative to the level of
5 financing that is provided by GMAC.

6 So what we decided to do is to enter into a
7 ratification agreement, which will bridge to a sale and that --
8 so we wouldn't have to deal with some of the issues of
9 premature assumption. All that the ratification agreement
10 provides is that the respective parties will continue to
11 perform under those agreements post-petition.

12 We did give GMAC the protection that if we make
13 payments to them in the ordinary course under the agreements
14 that those payments will not be subject to later disgorgement
15 or returned so that they're not increasing their exposure as a
16 result of continuing to provide credit under these agreements.

17 Your Honor, the agreement further provides that, upon
18 an assumption -- upon a sale closing, that the GMAC agreements,
19 the operative documents, will be assumed and assigned to New
20 GM. And as part of that assumption and assignment, GMAC has
21 agreed that they would have no further claims against Old GM
22 and that we would agree that the estate has no claims against
23 GMAC.

24 So those are the terms upon which we want to go ahead.
25 We want to continue to make our payments. We want to continue

1 to get the same level of financing from GMAC. And, in fact,
2 we're speaking about getting further financing. We don't know
3 what's going to happen with the twenty to twenty-five percent
4 of dealers that don't have GMAC financing. And GMAC may very
5 well pick up the slack. And you may see papers in front of you
6 shortly in that regard.

7 So, Your Honor, we'd ask that you approve the
8 ratification agreement, which would allow the company to
9 continue to operate under its existing agreements with GMAC.

10 THE COURT: Okay. Anybody want to be heard in
11 opposition?

12 I see no response.

13 Mr. Helfat, I assume you're just being careful in case
14 somebody does rise in opposition?

15 MR. HELFAT: And if you had any questions, Your Honor.

16 THE COURT: Actually I don't. So -- I'm looking once
17 more. There is no opposition. I'm granting the motion, and
18 I'm making the finding under 6003 that a financial commitment
19 of this type is necessary to avoid immediate and irreparable
20 harm to the estate.

21 MR. SMOLINSKY: Thank you, Your Honor.

22 THE COURT: Thank you.

23 Okay. Where are we now? Mr. Miller.

24 MR. MILLER: Your Honor, the next item is picking a
25 date for the next hearing on General Motors matters, including,

1 Your Honor, the final hearing on the DIP financing.

2 THE COURT: Okay.

3 Is Ms. Blum still here?

4 MR. MILLER: If I might, Your Honor, I would suggest
5 June 25, which is a Thursday? Actually, Your Honor, we got
6 that from Ms. Blum, I think.

7 THE COURT: Oh, okay. Yes, June 25 is fine, then.

8 MR. MILLER: That's fine, Your Honor. What time, Your
9 Honor?

10 THE COURT: I would say 9:45, unless you think we're
11 going to have so many matters we should start earlier.

12 MR. MILLER: We're subject to whatever Your Honor
13 thinks is appropriate.

14 THE COURT: I'll try to give you --

15 MR. MILLER: I would suggest, Your Honor, just to be
16 safe, how about 9 a.m.?

17 THE COURT: 9 a.m. it'll be. Okay.

18 MR. MILLER: That concludes all the matters the
19 debtors have, Your Honor. And again, once again, Your Honor,
20 we express our appreciation --

21 THE COURT: I think Mr. Karotkin's trying to telegraph
22 you.

23 (Discussion between counsel)

24 MR. MILLER: In the DIP order, the objections?

25 THE COURT: Oh, yes, that's a good point,

1 Mr. Karotkin. I could -- I'd like to have all papers in on
2 anything that has the potential of being contested at least a
3 full day in advance. And if you're going to want to reply,
4 which you often do, then I would recommend that you, depending
5 on how much time you want to reply, require the objections
6 shortly before that. Since the motion's pretty much in Macy's
7 window, how about the 19th as a time for objections to come
8 in --

9 MR. MILLER: That's fine.

10 THE COURT: -- and you or your colleagues getting me
11 any reply, if you choose to do one, by the close of --

12 MR. MILLER: How about the --

13 THE COURT: Maybe 6 o'clock on the 23rd? Will that
14 work for you?

15 MR. MILLER: That's fine, Your Honor.

16 THE COURT: Okay.

17 MR. MILLER: Thank you, Your Honor.

18 THE COURT: Very good.

19 MR. MILLER: And once again, appreciation for taking
20 this hearing so late in the afternoon, Your Honor.

21 THE COURT: Very well.

22 All right, thank you, folks. Good luck with this
23 case. We're adjourned.

24 IN UNISON: Thank you, Your Honor.

25 (Proceedings concluded at 6:38 PM)

I N D E X

R U L I N G S

DESCRIPTION	PAGE	LINE
Debtors' motion for joint administration of the four Chapter 11 cases granted	42	11
Debtors' motion for order waiving Requirement to file list of creditors and equity securityholders, and approving form and manner of notifying creditors of commencement of debtors' cases, approved.	42	21
Debtors' motion for order extending time to file schedules of assets and liabilities, schedules of executory contracts and unexpired leases, and statement of financial affairs granted	45	1
Debtors' motion for order granting administration expense status to the debtors' undisputed obligations to vendors arising from post-petition delivery of goods and services that were ordered pre-petition but delivered post-petition granted	45	16

			121
1			
2	DESCRIPTION	PAGE	LINE
3	Debtors' motion for order pursuant to	45	24
4	Section 105 enforcing the protections of		
5	Sections 362, 365(e) and 525 granted		
6	Debtors' motion for interim order authorizing	50	11
7	continued use of their cash management system		
8	and to continue to maintain their existing		
9	business forms granted		
10	Debtors' motion for authority to pay	55	18
11	pre-petition wages granted		
12	Debtors' motion for interim order	61	19
13	authorizing: A) continuation of Troubled		
14	Supplier Program, B) continuation of U.S.		
15	Treasury Supplier program, and C) payment		
16	of critical vendors granted		
17	Debtors' warranty and customer practice	65	5
18	motion/motion to continue the GM Cash		
19	Rewards Program granted		
20	Debtors' reclamation motion granted	70	25
21	on an interim basis		
22	Debtors' motion for payment of foreign	74	24
23	vendors granted		
24			
25			

			122
1			
2	DESCRIPTION	PAGE	LINE
3	Debtors' motion establishing procedures	75	17
4	under Section 503(b)(9) of the Bankruptcy		
5	Code as to the resolution and satisfaction		
6	of claims asserted under that provision of		
7	the statute granted		
8	Debtors' motion seeking authorization for	77	1
9	the payment of certain pre-petition shipping		
10	and delivery charges for goods in transit,		
11	custom duties and tooling and mechanics'		
12	lien charges granted		
13	Debtors' motion seeking authority to	77	17
14	continue to pay premiums for the debtors'		
15	normal liability property coverage		
16	insurance in the ordinary course of		
17	business granted		
18	Debtors' motion seeking authority for the	78	10
19	payment of sales taxes, use taxes, gross		
20	receipts taxes and similar type taxes		
21	which are outstanding with respect to the		
22	pre-petition period granted		
23			
24			
25			

			123
1			
2	DESCRIPTION	PAGE	LINE
3	Debtors' motion regarding the	79	12
4	preservation of the debtors' tax benefits		
5	and net operating loss carry-forwards		
6	granted on an interim basis		
7	Debtors' utility motion granted	81	16
8	Debtors' motion for request for an order,	112	20
9	pursuant to Section 363 and related		
10	provisions, in connection with the debtors'		
11	motion to approve sale procedures for the		
12	sale of substantially all of its assets,		
13	pursuant to the master sale and purchase		
14	agreement with Vehicle Acquisition Holdings		
15	LLC approved		
16	Debtors' motion for interim order in	106	21
17	connection with the granting of the use of		
18	cash collateral granted		
19	Subject to conforming change, DIP order	112	12
20	approved		
21	Debtors' motion for admission of Robert	113	16
22	Weiss, Esq. and Tricia Sherick, Esq. as		
23	special counsel and conflicts counsel granted		
24			
25			

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DESCRIPTION	PAGE	LINE
Debtors' motion to seal certain agreements	114	17
granted, subject to language in the order		
Debtors' motion to approve the ratification	117	17
agreement which would allow the company to		
continue to operate under its existing		
agreements with GMAC granted		

C E R T I F I C A T I O N

I, Clara Rubin, certify that the foregoing transcript is a true
and accurate record of the proceedings.

Clara Rubin
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